
Independent Review of Integrity in Tennis

FINAL REPORT

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**ADAM LEWIS QC
BETH WILKINSON
MARC HENZELIN**

I	EXECUTIVE SUMMARY	1
II	IMPETUS FOR INDEPENDENT REVIEW	8
III	APPOINTMENT OF THE PANEL, TERMS OF REFERENCE, AND SCOPE OF REVIEW	10
IV	THE INDEPENDENT REVIEW PROCESS	12
	A. INTERVIEWS WITH TENNIS STAKEHOLDERS	12
	B. INTERVIEWS WITH PLAYERS AND THE PLAYER SURVEY	13
	C. DOCUMENT REVIEW	13
	D. EXPERT CONSULTANTS	14
	E. PROPOSALS FROM THE INTERNATIONAL GOVERNING BODIES AND THE TIU	14
	F. REPRESENTATION PROCESS PRIOR TO PUBLICATION OF INTERIM REPORT	14
	G. CONFIDENTIALITY OF INFORMATION	15
	H. CONSULTATION PROCESS	15
V	PRIOR REVIEWS OF INTEGRITY IN TENNIS	16
	A. 2005 INGS REPORT	16
	B. 2008 ENVIRONMENTAL REVIEW	17
VI	NATURE AND EXTENT OF THE INTEGRITY PROBLEM IN TENNIS	18
	A. THE SUSCEPTIBILITY OF PROFESSIONAL TENNIS TO BREACHES OF INTEGRITY	18
	B. THE GROWTH OF ONLINE BETTING ON TENNIS AND THE SALE OF OFFICIAL LIVE SCORING DATA	20
	C. EVIDENCE AS TO INCIDENCE AND LOCATION OF BREACHES OF INTEGRITY IN TENNIS	21
	D. DATA STORED IN THE TIU DATABASE	22
	E. INTERVIEWS UNDERTAKEN BY THE PANEL	39
	F. SURVEY DATA	40
	G. OTHER EVIDENCE	42
	H. DEGREE OF CONFIDENCE IN PROVISIONAL FINDINGS ON THE NATURE AND EXTENT OF THE PROBLEM	43
	I. DIFFICULTIES IN SAFEGUARDING INTEGRITY BY DETECTING AND PUNISHING BREACHES	43
VII	RESPONSE OF THE INTERNATIONAL GOVERNING BODIES AND TIU TO INTEGRITY ISSUES	44
	A. INTEGRITY-RELATED INVESTIGATIONS, ENFORCEMENT, AND EDUCATION SINCE 2009	44
	B. THE INTERNATIONAL GOVERNING BODIES' INVESTIGATION AND ENFORCEMENT EFFORTS BEFORE THE CREATION OF THE TACP AND THE TIU	51
	C. THE HANDOVER OF RESPONSIBILITY FROM THE INTERNATIONAL GOVERNING BODIES TO THE TIU	55
VIII	RECOMMENDATIONS	58
	A. REMOVING OPPORTUNITIES AND INCENTIVES FOR BREACHES OF INTEGRITY	58
	B. ESTABLISHING A NEWLY-EMPOWERED TIU WITH INDEPENDENT SUPERVISORY BOARD OVERSIGHT	77
	C. PREVENTING BREACHES THROUGH EDUCATION, CONTROL OF ACCESS, AND DISRUPTION	83
	D. ENFORCING EXPANDED INTEGRITY RULES AND PUNISHING OFFENDERS	89
	E. NATIONAL AUTHORITIES TO DEVELOP NATIONAL AND INTERNATIONAL REGULATION AND ENFORCEMENT	112

I EXECUTIVE SUMMARY

A INTRODUCTION

1. In early 2016, the four organisations principally responsible for governing professional tennis at the international level – the ATP, the WTA, the ITF, and the Grand Slam Board (collectively, the “International Governing Bodies”) – appointed an Independent Review Panel (the “Panel”) to address betting-related and other integrity issues facing the sport. Pursuant to its Terms of Reference, the Panel conducted an Independent Review of Integrity in Tennis (the “Review”), addressing the nature and extent of the problem over time; the appropriateness and effectiveness of the sport’s historical and present approach to addressing it; and potential changes to improve how the sport tackles it in the future.
2. On 25 April 2018 the Panel published its Interim Report which summarised the Panel’s preliminary conclusions and proposed recommendations. Along with the Interim Report, the Panel simultaneously made available for consideration and comment its underlying Record of Evidence and Analysis (“REA”), which described at greater length and in greater detail the evidence and analysis on which the preliminary conclusions and proposed recommendations in the Interim Report were based, such that the two documents could be read together. Although the Panel summarised its major conclusions and recommendations, the Interim Report necessarily did not include every detail, argument, and document that could be found in the comprehensive REA.
3. The Panel regarded it as important that all interested persons should have, and take, the opportunity to provide input on all aspects of the Panel’s interim findings. The Interim Report, together with the REA, was therefore made available for consultation. During the consultation period, a number of interested parties provided extensive submissions in relation to the Panel’s interim findings. The Panel fully considered all comments submitted.
4. The Panel now issues this Final Report, which contains the Panel’s final conclusions and recommendations. The Panel addresses in this Final Report the input the Panel has received on consultation. Although the REA remains an important document, the Panel has not updated it for the purposes of preparing this Final Report. In the event of any conflict, this Final Report reflects the most contemporaneous record and therefore prevails over the REA.
5. This Final Report is based on the Panel’s comprehensive analysis of betting-related and other integrity issues facing professional tennis, including interviews of witnesses, examination of records and documents, and consultation with experts in various fields. With the assistance of its Secretariat and those working at its direction the Panel has, among other things:
 - 5.1 interviewed and collected written statements from over 200 key stakeholders in professional tennis, including the International Governing Bodies, the Tennis Integrity Unit (the “TIU”), tournament organisers and directors, national federations, governmental regulators, and betting operators;
 - 5.2 conducted over 100 interviews of, and collected over 3,200 survey responses from, male and female professional tennis players at all tournament levels around the world;
 - 5.3 collected, and conducted a proportionate review of, voluminous documents from the International Governing Bodies and the TIU;
 - 5.4 consulted numerous subject-matter experts, including to conduct its player survey, to assess the relevant betting markets, to analyse the intelligence received by the TIU and the data stored on the TIU database, and to evaluate the TIU’s handling of its caseload since 2009;
 - 5.5 received and considered proposals from the International Governing Bodies and the TIU for changes to the organisation of the sport and to the system for safeguarding integrity;
 - 5.6 undertaken a process to afford individuals and organisations potentially subject to criticism an opportunity to make representations before publication, and considered all such representations that the Panel has received; and

- 5.7 undertaken a consultation exercise to afford individuals and organisations interested in, and potentially affected by, the Panel's preliminary conclusions and recommendations the opportunity to provide submissions in writing and at consultation interviews, and carefully considered all such submissions before producing this Final Report.
6. The Panel has been impressed with the level of assistance and cooperation provided to it throughout the Review. The TIU provided the Panel with full access to its documents. The Panel has been provided with all of the information it has requested from all the International Governing Bodies and from others, in a form on which the Panel can rely. On consultation some submissions in relation to Recommendation 1 were provided in confidential form.

B THE NATURE AND EXTENT OF THE PROBLEM

7. As illustrated by past reviews, concerns about the threat of betting-related and other breaches of integrity to professional tennis are not new. In June 2005, a report authored by Richard Ings, then the ATP's Executive Vice President for Rules and Competition, concluded that tennis faced a "*clear*" threat of match-fixing and warned that the sport was "*at a crossroads of credibility*". Following a suspicious match in Sopot, Poland that garnered significant press attention, and gave rise to an investigation by experienced sports-integrity investigators, a May 2008 "*Environmental Review of Integrity in Professional Tennis*" ("Environmental Review") authored by investigators Ben Gunn and Jeff Rees similarly found that "*threats to the integrity of professional tennis*" are "*real and cannot be taken lightly*".
8. Today, tennis faces a serious integrity problem. There are several reasons for this:
- 8.1 The nature of the game lends itself to manipulation for betting purposes. There are many contingencies. There is only one player who must act. Detection is difficult, not least because at many lower level matches there are no spectators and inadequate facilities to protect players from potential corrupters. Moreover, under-performance is often attributed to 'tanking', which too often has been tolerated.
- 8.2 The player incentive structure creates a fertile breeding ground for breaches of integrity. Only the top 250 to 350 players earn enough money to break even. Yet there are nominally approximately 14,000 'professional' players. The imbalance between prize money and the cost of competing places players in an invidious position by tempting them to contrive matches for financial reward. Players may be particularly tempted in relation to matches that they intended to 'tank' for unrelated reasons – a factor that has been aptly described as the "*seeds of corruption*" – or in matches that they believe they can win even while contriving to lose games, sets, or points along the way.
- 8.3 The advent of online betting and the sale of official live scoring data have greatly exacerbated the problem. The data sale contracts have made tens of thousands of matches available for betting, creating greater opportunities for players and officials to bet or act corruptly. It is now possible to place online bets on a wide range of contingencies in matches played at levels of the sport that cannot accurately be described as professional, and at which the risk of integrity breaches, by players, officials, and others, is likely greatest.
9. The evidence available to the Panel – including data stored on the TIU database, player interviews, the player survey, prior integrity reviews, past and present enforcement actions, and statements by investigators responsible for enforcing the integrity rules – demonstrates that while no level of professional tennis is immune from betting-related and other breaches of integrity, the problem is particularly acute and pervasive at the Lowest Level (made up of ITF men's \$15k and \$25k events, also known as "Futures" or "Pro Circuit" events, and ITF Women's \$15k and \$25k events, also known as "Pro Circuit" events) and at the Mid-Level (made up of ATP Challenger and ITF Women's Pro Circuit \$60k-\$100k events and WTA \$125k events) of the sport. The Panel assesses the problem at the Lowest Level and the Mid-Level overall to be very significant. A TIU investigator described the extent of the problem at some lower level events as a "*tsunami*". The evidence indicates that within these levels the problem is greater at men's events than at women's events, and that the problem is greater at \$15k events than at \$25k events.

10. The evidence as a whole reviewed by the Panel has not revealed a widespread or extensive problem at higher levels of professional tennis (Tour events and Grand Slams), although there is nonetheless evidence of some issues at these levels.
11. While each of the evidential sources has some limitations taken alone, they generally point together to the unsurprising conclusion that the integrity problems in tennis are greatest where prize money relative to costs, prospects of advancement, public interest and attention, and financial resources of tournaments are lowest.

C THE HISTORICAL APPROACH TO THE INTEGRITY PROBLEM

12. Shortly before the appointment of the Panel, there was media coverage critical of past events, as well as of the current condition of professional tennis. The Panel has not discovered any evidence demonstrating a 'cover up' in relation to these issues, by the International Governing Bodies, the TIU, or anyone else.
13. Historically, the approach of the International Governing Bodies and the TIU to integrity-related issues includes many instances in which the officials responsible for safeguarding tennis acted appropriately and proportionately. For example:
 - 13.1 The ATP, led by the efforts of Richard Ings, was proactive in introducing an anti-corruption code in the early 2000s. Compared to many other sports, tennis was at the forefront of efforts to address integrity issues.
 - 13.2 Following the highly publicised Sopot match in 2007, the ATP appropriately dedicated time and resources to conducting a thorough investigation.
 - 13.3 The International Governing Bodies then came together to commission the Environmental Review and, thereafter, to institute a new integrity system for professional tennis.
14. There were, however, a number of occasions where the actions taken by the sport were inappropriate or ineffective, resulting in missed opportunities. In particular:
 - 14.1 Greater attention should have been given by the ATP to a report produced by Richard Ings in 2005.
 - 14.2 In a number of cases the ATP failed to exhaust potential leads before ending investigations, including, in 2007 and 2008, with respect to its investigation of betting accounts in the names of players and coaches.
 - 14.3 When issues arose at the Grand Slam level, the Grand Slam Committee investigations, which were carried out by the ITF in connection with the Grand Slams, were at times insufficient. These entities did not have the structures and resources in place to conduct adequate investigations.
15. While limited by the historical information still available for review, the Panel saw no evidence of failures by the WTA or ITF in their handling of historic corruption allegations. Indeed, the Panel has not seen evidence of betting related corruption arising at the ITF level prior to 2009.
16. The Panel is concerned, however, about the circumstances in 2003 in which a player who had been under investigation retired. As explained in Section VII.B below, it appears that the player under investigation retired following a conversation with the ATP. Whilst the Panel understands why the ATP may have viewed Player B's retirement as achieving an appropriate outcome for the sport (i.e. the player ceasing to play tennis), such an outcome should have been arrived at through the prescribed disciplinary process.

D THE APPROACH TAKEN SINCE THE CREATION OF THE TIU IN 2009

17. In 2008, the International Governing Bodies acted appropriately in working together to adopt a uniform tennis anti-corruption code (the “TACP”); to fund jointly the TIU to investigate and prosecute betting-related breaches of integrity in tennis; and to establish an education programme, the Tennis Integrity Protection Programme (the “TIPP”). The new system came into operation in January 2009. Since the TIU was established, the International Governing Bodies have consistently provided the TIU with the funding the TIU has requested.
18. The TIU’s efforts to safeguard tennis integrity deserve credit in several respects. Most notably, the TIU has conducted 59 successful prosecutions since 2009, (23 of which have taken place since the publication of the Interim Report¹), it has significantly expanded its relationships in the betting industry, and it has implemented an education programme that has been applied to more than 25,000 players. All of these efforts have developed positively since the Interim Report.
19. The Panel has not seen any evidence that the TIU acted to cover up breaches of integrity. The TIU’s staff face significant challenges in attempting to combat the threats facing tennis. In the Panel’s view, however, the TIU’s historical overall approach has fallen short in a number of important respects:
 - 19.1 At the outset of its existence, the TIU missed a significant opportunity when it failed to take steps in relation to: (i) 45 matches that had been identified in the Environmental Review as warranting further review; (ii) material that it received from the International Governing Bodies relating to offences from before 2009; and (iii) material that had been downloaded, during the Sopot investigation, from the mobile phone of one of the players involved in the Sopot match.
 - 19.2 The TIU has been understaffed since its inception. It appears to have been overwhelmed by the increasing workload and to have reacted behind the curve in increasing its resources. Further, the TIU has lacked staff with important specialised skills. In particular, the TIU should have employed a betting analyst.
 - 19.3 While some of the insufficiencies in the TIU’s historical approach are attributable in part to its inadequate resources, others are attributable to what has been, in the Panel’s assessment, an overly conservative and insufficiently proactive attitude on its part as to how best to detect, investigate and prevent breaches of integrity of tennis arising around the world, using a full range of methods and in cooperation with others within the sport and law enforcement. In particular, insufficient use has been made of betting data to direct TIU investigations.
 - 19.4 When deciding whether to pursue charges, the TIU has taken an unduly restrictive approach to the disciplinary rules.
20. In 2011, the TIU’s task was made more difficult by the ITF entering into a live scoring data sale agreement with Sportradar. A further agreement was entered into in 2015. Whilst these deals have generated considerable funds for the sport, they have also greatly expanded the available markets for betting on the Lowest Levels of professional tennis. The Panel considers that insufficient diligence was undertaken by the ITF fully to assess the potential ramifications of entering into these agreements, which increased by tens of thousands the matches that could be bet upon at the Lowest Level of the sport, before entering into them.
21. Insufficient oversight has contributed to the shortcomings of the TIU’s current approach. The TIU has not been subject to adequate supervision or strategic direction from the Tennis Integrity Board (“TIB”), which was established by the International Governing Bodies to oversee the TIU. This has principally arisen as a consequence of the TIB’s deference to the independence of the TIU.

¹ In total, the TIU has brought 62 prosecutions since 2009. Two prosecutions resulted in an acquittal by the AHO and one prosecution was overturned on appeal to CAS.

E FINAL RECOMMENDATIONS

22. There is no simple solution or panacea to deal with the problem now faced. Rather, what is required is a package of measures to tackle the underlying causes of the problem in the organisation of the sport; to address and limit the betting markets that ultimately drive, and give expression to, the problem; and to improve the systems for preventing and disrupting breaches of integrity, and for detecting and sanctioning them when they occur.
23. To assist the International Governing Bodies in their important endeavour to combat betting-related and other breaches of integrity in tennis, the Panel's Review has identified and this Final Report recommends a number of ways for tennis to confront and address more effectively the integrity challenges it faces. The Interim Report set out, for consultation, provisional recommendations, which were developed further in Chapter 14 of the REA. Following that consultation process, the Panel now makes the following final recommendations:

(1) Removing opportunities and incentives for breaches of integrity

24. **Recommendation 1.** The Panel recommends that the opportunities for breaches of integrity be reduced through limitations on the supply of official live scoring data, in particular:
- 24.1 Discontinuing the supply of official live scoring data in respect of the developmental base tier of the new ITF World Tennis Tour ("WTT"), which comes into operation from 1 January 2019, and which comprises the former ITF \$15k events.
- 24.2 Empowering the TIU to monitor betting markets and to disrupt betting based on unofficial live scoring data at ITF World Tennis Tour \$15k developmental tier matches and at any other matches for which official data will not be supplied.
- 24.3 Empowering the TIU to impose targeted restrictions on the supply of official live scoring data in particular circumstances at all levels of the sport.
- 24.4 Imposing integrity-related contractual obligations on betting operators and data supply companies as a condition of the supply of official live scoring data.
25. The Panel considers that it is unsustainable for tennis to maintain the *status quo* of there being betting markets on tens of thousands of matches at the ITF \$15k level involving many thousands of players. The Panel considers, following consultation, that the significant limitations described above are necessary and strike the appropriate balance at this time between all the competing considerations. The Panel recognises that these recommendations will have an adverse impact on the ITF's revenues, a substantial part of which is reinvested in promoting tennis at what is essentially a developmental level of the game. The Panel therefore recommends that the other International Governing Bodies should contribute greater funds to assist the ITF's critical function of developing the next generation of professional tennis players.
26. The Panel recommends that the International Governing Bodies and the events that they endorse do not accept sponsorship from the betting industry. Players are precluded from taking such sponsorship under the rules, and the International Governing Bodies and their sanctioned events should lead by example.
27. Cooperation between betting operators and the TIU is essential in the fight against breaches of integrity in tennis. The Panel considers that betting operators must play their part by, for example, not seeking to offer betting markets in respect of WTT \$15k developmental tier matches, or in particular circumstances where official data are no longer to be sold. Betting operators should also fully cooperate with the TIU in its efforts to bring proceedings against those who breach the integrity rules of the sport. In turn, the TIU should actively engage with betting operators.

28. The Panel recognises that it is difficult to predict with certainty the consequences of the recommended changes set out above, and that different views can be and are taken by different stakeholders. The Panel therefore recommends that there be continuing assessment by the new independent SB and TIU of each of the changes, to enable them to evaluate on the basis of what actually happens in practice, whether any correction of course, in any direction, is appropriate, and in particular as to the extent of any future sale of ITF data after the Sportradar contract comes to an end. Pending such Supervisory Board ("SB") and TIU assessment, the ITF should not enter into any new contract or extend the term of any current arrangements.

29. **Recommendation 2.** There should be changes to the organisation of professional tennis to address incentive problems. The Panel proposed in the Interim Report that the incentives for breaches of integrity be reduced by restructuring the player pathway to ensure sufficient financial incentives and prospects for progression. The Panel welcomes the steps taken by the sport since the Interim Report to restructure the player pathway, through in particular the introduction of the World Tennis Tour and the more realistic approach to how many players can be considered professional. The Panel further recommends that the restructured pathway should be assessed regularly by the ITF, ATP and WTA, to ensure that it provides sufficient financial incentives and prospects for progression in both the men's and the women's game. The Panel identifies a number of specific aspects of the player incentive structure that will require further evaluation and regular assessment by the International Governing Bodies.

(2) Establishing a newly-empowered TIU with independent Supervisory Board oversight

30. **Recommendations 3 and 4.** The TIU should be reorganised with independent oversight. Amongst other things, the Panel proposes that:

30.1 There should be a new, independent, SB for the TIU, comprising an independent Chair and four further independent members, each of whom will have one vote, and four members, one appointed by each of the four International Governing Bodies, each of whom will have a half of a vote.

30.2 There should be a new, independent, TIU, with separate legal personality, the form and location of which will be decided by the new independent SB, and a Chief Executive Officer to be appointed by the SB.

30.3 The TIU should have more, and more diverse, staff to deal with the scale and nature of the integrity problem now faced in tennis, to be appointed by the TIU's Chief Executive Officer.

30.4 The TIU should be properly and securely funded.

30.5 There should be an annual external audit of the TIU.

(3) Preventing breaches of integrity through education, control of access, and disruption

31. **Recommendation 5.** Completion of enhanced integrity training should be a condition of playing, and the training should be extended to other key participants in tennis.

32. **Recommendations 6 and 7.** Access to players should be controlled through, amongst other things, changes to accreditation and to the standards of facilities and security at events. Measures should be implemented to deal with rampant online abuse of players. There should be an "exclusion" procedure, and consideration should be given to the use of disruption techniques and integrity testing where legal and appropriate.

(4) Enforcing expanded integrity rules and changing the TIU's approach to investigating and punishing offenders

33. **Recommendation 8.** The Panel makes a number of recommendations for changes in the rules, including to broaden the prohibitions on such conduct as deliberate contrivance of a match and abuse of inside information, and to strengthen cooperation and reporting obligations. The new TACP should be accompanied by a practical guidance document so that the effect of the rules can be easily understood.
34. **Recommendation 9.** There should be changes to the TIU's investigative processes, including:
- 34.1 The TIU should have in-house betting expertise dedicated to the fight against breaches of integrity. The TIU should improve the collection of betting data from betting operators. The TIU should make greater use of betting data to support disciplinary proceedings.
- 34.2 The TIU should have access to independent tennis expertise dedicated to the fight against breaches of integrity. The TIU should make greater use of match footage to support disciplinary proceedings.
- 34.3 The TIU should improve its processes for gathering, storing and using intelligence.
- 34.4 The TIU should promptly clear its substantial backlog of cases.
35. **Recommendation 10.** The Panel recommends a number changes to TACP disciplinary processes, to permit more expeditious and cost-effective proceedings while protecting the rights of the accused, to be implemented by the new independent SB and TIU. Amongst other things, the Panel recommends that the SB and TIU consider replacing the current two-stage process which includes a *de novo* appeal to the Court of Arbitration for Sport - with a single-stage process before an independent and impartial tribunal, or a two-stage process where the appeal is not *de novo* but rather reviews whether the first instance decision was flawed.
36. **Recommendation 11.** The Panel makes recommendations for enhanced transparency of the TIU and the disciplinary process, including publication of all resolutions of proceedings.
37. **Recommendation 12.** There is an opportunity and need for the TIU to more effectively engage and cooperate with national federations and law enforcement agencies, as well as with other sports governing bodies and third parties, and the Panel makes recommendations to promote this.

(5) Encouraging national and international cooperation and enforcement

38. The Panel also urges national authorities to make greater use of the criminal law, where appropriate, to assist in the global fight against match-fixing, both by enacting appropriate prohibitions and by prosecuting where possible. The International Governing Bodies and national federations should encourage this.
39. National authorities are also urged to make use of mechanisms for international cooperation in this context. The Council of Europe Convention on the Manipulation of Sports Competitions (the "Macolin Convention") provides a useful framework for countries to deal more effectively with match-fixing at the national and international levels. The Panel urges the relevant national authorities to ratify and implement it, and recommends that the International Governing Bodies and national federations encourage this happening.

II IMPETUS FOR INDEPENDENT REVIEW²

40. Although the media had covered integrity issues in tennis for several years, scrutiny intensified on the eve of the 2016 Australian Open. In particular, on 17 January 2016, BuzzFeed News and the BBC jointly stated, in ‘The Tennis Racket’, that they had obtained *“secret files exposing evidence of widespread match-fixing by players at the upper level of world tennis”*. The piece criticised choices made by the International Governing Bodies and the TIU following the ‘Environmental Review of Integrity in Professional Tennis’ in 2008³. Based on a reported review of *“leaked documents from inside the sport”* as well as *“interviews across three continents with gambling and match-fixing experts, tennis officials, and players”*, the piece claimed that *“the sport’s governing bodies have been warned repeatedly”* about match-fixing by particular players, *“but none have faced any sanctions and more than half of them [were to] begin playing at the Australian Open”*. According to the piece, *“more than 20 gambling industry officials, international police detectives, and sports integrity experts told BuzzFeed News that world tennis is failing to confront a serious problem with match-fixing”*. The piece also reported that several players had been *“flagged”* repeatedly as suspected fixers by betting operators and that betting data identified a group of players who *“regularly lost matches in which heavily lopsided betting appeared to substantially shift the odds – a red flag for possible match-fixing”*.
41. Expressly or implicitly, ‘The Tennis Racket’ asserted that:
- 41.1 tennis authorities had taken inadequate steps in the past to address match-fixing, that the TIU and its approach had been inadequate, and that tennis is still *“failing to confront a serious problem with match-fixing”*;
- 41.2 tennis authorities had in the past turned, and are still now turning, a blind eye to match-fixing: *“Tennis hasn’t got a problem because they don’t want to have a problem”*; and
- 41.3 tennis authorities had in the past deliberately suppressed, and are now still deliberately suppressing, the extent of the problem: *“leaked files expose match-fixing evidence that tennis authorities have kept secret for years”*.
42. In response, the International Governing Bodies and the TIU promptly released a joint statement *“reject[ing] any suggestion that evidence of match-fixing has been suppressed for any reason”* and reiterating their *“zero-tolerance approach to all aspects of corruption”*. The statement noted that the International Governing Bodies had commissioned the Environmental Review and, consistent with the recommendations from that review, adopted a uniform anti-corruption code and created the TIU as an independent body to investigate and prosecute tennis integrity offences. The statement quoted ATP President Chris Kermode: *“Tennis remains fully committed to meeting the challenge that all sports face from corrupt betting practices. We have stringent procedures and sanctions in place to deal with any suspected corruption and have shown we will act decisively when our integrity rules are broken... We remain open and willing to upgrade any or all of the anti-corruption systems we have in place if we need to”*.

² REA, Chapter 11.

³ Ben Gunn and Jeff Rees, ‘Environmental Review of Integrity in Professional Tennis’ (May 2008), available at: <http://www.tennisirp.com>.

43. Following the joint press release, media coverage of suspected match-fixing continued. Further pieces expressly or implicitly asserted that *“the problem in tennis has been systemic for over a decade, and . . . largely ignored by tennis”*; that *“tennis buried”* Richard Ings’ ‘Report on Corruption Allegations in Men’s Professional Tennis’ (the “Ings Report”)⁴; that the ITF had acted inappropriately in selling live scoring data and had concealed disciplinary cases against umpires for match-fixing; that the TIU had acted incompetently in relation to a suspicious mixed doubles match at the Australian Open and in failing to deal with two Italian players under criminal investigation; and that the ATP had in the past been selective in its efforts to discipline players for betting on tennis, in order to protect prominent players.
44. While such media attention may have been the immediate impetus for this Review, the explosive growth of online betting, facilitated by the sale of official live scoring data, was a fundamental change in circumstances requiring reassessment of the existing system.

⁴ Richard Ings, ‘Report on Corruption Allegations in Men’s Professional Tennis’ (June 2005), available at: <http://www.tennisirp.com>.

III APPOINTMENT OF THE PANEL, TERMS OF REFERENCE, AND SCOPE OF REVIEW⁵

45. Less than two weeks after the publication of ‘The Tennis Racket’, the International Governing Bodies announced this Independent Review of Integrity in Tennis. Adam Lewis QC (from the United Kingdom) was appointed to lead the three-person Panel⁶. Mr Lewis selected the remaining two members of the Panel, Beth Wilkinson (from the United States)⁷ and Dr Marc Henzelin (from Switzerland)⁸. Jonathan Ellis (from the United Kingdom) was appointed as the Solicitor and Secretary to the Panel, and he heads the Panel’s Secretariat (Northridge Law LLP)⁹. The members of the Panel are lawyers entirely separate and independent from the International Governing Bodies as well as from the Secretariat.
46. The International Governing Bodies set out the Panel’s mission in the ‘Terms of Reference’, which charged the Panel with reviewing the appropriateness and effectiveness of the TACP, TIU, and TIPP and recommending changes for improvement. The matters to be covered by the Panel’s Review included:
- 46.1 *“The rules governing and protecting the integrity of the actions of participants in tennis, including the rules of the TACP”;*
- 46.2 *“The mechanisms for investigation and the enforcement of those rules, including through the TIU”;*
- 46.3 *“Whether investigation and the enforcement of the rules through those mechanisms has been carried out appropriately”;*
- 46.4 *“The relationships with law enforcement agencies, betting operators and other relevant bodies”;*
- 46.5 *“The level of independence of the TIU”;*
- 46.6 *“The level of resources allocated to the TIU”;*
- 46.7 *“The level of transparency in investigation and the enforcement of the rules”;* and
- 46.8 *“The approach to the education of participants in tennis, including through the TIPP”.*
47. Additionally, *“the [Panel] shall be entitled to review and report on... relevant matters that occurred before the adoption of the TACP and creation of the TIU”;* *“the significance of the roles of the bodies outside of tennis, including international and state bodies and law enforcement agencies, betting operators and other relevant bodies”;* and *“any other matter that it considers to be relevant arising out of its review”.* The International Governing Bodies specifically asked the Panel to address past events, including concerning their performance and the performance of the TIU, as part of this Review.
48. Accordingly, the factual ambit of this Review is behaviour that throws into doubt the genuineness of the competition and outcomes in professional tennis matches, because a player has decided not to try to win the match, or part of it. Also included in the factual ambit are tennis participants using or

⁵ REA, Chapter 1.

⁶ Mr Lewis, of Blackstone Chambers, is a barrister specialising in Public Law, EU Law, and Sports Law. He regularly appears before the English and European courts and in arbitral tribunals, including the Court of Arbitration for Sport in Lausanne, Switzerland. He also sits as an arbitrator in sports disputes. Mr Lewis previously worked for law firms in both Washington, D.C. and Brussels, as well as in the cabinet of a European Commissioner.

⁷ Ms Wilkinson, of Wilkinson Walsh + Eskovitz LLP, serves as lead trial counsel in federal and state cases involving, among other things, sports and entertainment, white collar crime, antitrust, mass tort and product liability, and class action litigation. She represents various U.S. professional and college sports leagues and associations. Ms Wilkinson also represents clients in front of the Department of Justice, Congress, and other government agencies. She is a former Assistant United States Attorney and a former Counsel to the Deputy Attorney General.

⁸ Dr Henzelin, of LALIVE SA, serves as lead counsel in transnational and domestic litigation, involving, among other things, international and economic criminal law, commercial and banking litigation, asset recovery, mutual legal assistance in criminal matters and extradition, and public international law. He also leads private investigations. Mr Henzelin previously served as an acting Judge at the Cour de Cassation of Geneva and of the criminal and commercial sections of the Court of Appeal.

⁹ The Secretariat comprises a number of solicitors who are specialists in sports law. The IRP has also received substantial assistance from attorneys at Wilkinson Walsh + Eskovitz LLP, especially Sean Eskovitz, and at LALIVE SA especially Giulio Palermo, as well as from various experts and consultants, described herein.

providing inside information for betting purposes; betting by participants; encouraging or facilitating betting by others; delay in entering or manipulation of scoring by officials; sponsorship of players and others by betting operators; inappropriate provision of accreditation and sale of wildcards; failure to report corrupt approaches and to cooperate and assist in investigations; and association with known corruptors. Other breaches of integrity in the broadest sense, such as doping or other forms of cheating to win, are not covered. Nor does this Review include other behaviour aimed at increasing the chances of winning by impermissible means, such as on-court coaching or violating equipment rules.

49. The Panel's task is to assess the integrity system in place and its operation. It is not, and could not be, the task of the Panel to evaluate whether there have been specific breaches of integrity by particular individuals. That can only be determined by a disciplinary process. Nothing in this Final Report, the Interim Report or in the REA is or should be taken as concluding or suggesting that there has been such a breach of integrity, in the absence of a disciplinary decision that has already reached this conclusion.
50. Nor is it the task of the Panel to determine whether any past decision or action of any person or organisation satisfied any public law or private law legality standard or test, or was in breach of contract or tortious. The Panel is not a court or arbitration panel charged with resolving a dispute as to such legality. The Panel is charged with assessing what happened in the past, based on the available information, and whether in the Panel's opinion it was appropriate and effective. This does not mean, however, that the Panel is assessing the legality of any decision or action by reference to any contractual or tortious or irrationality or unreasonableness standard or test. Nothing in this Final Report, the Interim Report or in the REA is or should be taken as concluding or suggesting that any decision or action satisfied, or failed to satisfy, any such public law or private law legality standard or test, or was or was not in breach of contract or tortious.
51. The Panel bears in mind the environmental and factual circumstances at the time. The Panel also acknowledges that it necessarily has the benefit of hindsight, that matters may appear different now than they did at the time, and that points of view as to what may be the right decision or action to take may vary. Through the evidence gathering and representation process, the Panel received comments and responses regarding many of the matters addressed in the Interim Report and (amended as appropriate) in this Final Report. That evidence is set out in further detail in the REA, to which the reader is referred and which should be read together with this Final Report, subject to the caveat that the Panel's final findings and recommendations are set out in this Final Report. The Panel further notes that faded, or hardened, witness recollection and the nature of the Review, which does not involve an adversarial process, mean that on occasion it is not possible or appropriate to seek to resolve direct conflicts in the evidence.
52. In conducting this Review, the Panel has had the authority to require document productions from the International Governing Bodies and the TIU, interview individuals, engage experts, and enter into confidentiality agreements. The Panel also has broad discretion to "*make such recommendations as it considers appropriate*" in this Final Report. The Terms of Reference also required the Panel to notify any individuals or organisations whom the Panel intends to criticise in its report and to give these individuals or organisations a reasonable opportunity to respond; that representation process is described further below. For their part, the International Governing Bodies committed to cooperate with the Panel's Review, to make the outcomes and recommendations of the Review publicly available, and to implement and fund all of the Panel's recommended actions.

IV THE INDEPENDENT REVIEW PROCESS¹⁰

- 53. The Panel accepted, and has pursued, its mandate in this matter without any pre-set agenda or pre-determined conclusions. Since March 2016, the Panel has conducted an extensive review of betting-related and other integrity issues facing professional tennis.
- 54. The Panel has been impressed with the level of assistance and cooperation provided.
- 55. The findings and recommendations set forth in this Final Report are based on the evidence provided to it through this Review. The Panel recognises, however, that there might be other evidence that it was not provided with or did not discover.

A INTERVIEWS WITH TENNIS STAKEHOLDERS

- 56. The Panel interviewed numerous stakeholders in professional tennis (in addition to players), including:
 - 56.1 current and former representatives of the International Governing Bodies with responsibility for all the diverse elements of the regulation of tennis related to integrity;
 - 56.2 current representatives of national tennis federations, including the USTA, the Lawn Tennis Association, Tennis Australia, the French Tennis Federation, the Italian Tennis Federation, the Spanish Tennis Federation, and the Uruguayan Tennis Federation. In addition, the Panel gave national federations the opportunity to provide input at the ITF AGM in 2016 and invited comment from the national federations regarding integrity in tennis and their relationship with the TIU. In total, the Panel received responses or input from a diverse group of 25 national federations, including at least one federation from each of the six continents;
 - 56.3 tournament organisers and directors, including officials from Egypt, Germany, Turkey, and the United States;
 - 56.4 professional referees and umpires, including officials at tournaments in Egypt, Italy, Spain, Turkey, the United States, and Uruguay;
 - 56.5 officials, experts and investigators involved in previous reviews of integrity in tennis or investigations, including Richard Ings, Albert Kirby, Ben Gunn, Paul Scotney, Paul Beeby, Mark Phillips and John Gardner;
 - 56.6 current and former TIU employees, including the past Director of Integrity, Jeff Rees; the current Director of Integrity, Nigel Willerton; the TIU's current investigators, Dee Bain, Jose De Freitas, Michael Mahon Daly, and Simon Cowell; the TIU's Information Manager, Phil Suddick; and the TIU's Education and Training Manager, Matthew Perry;
 - 56.7 a number of betting companies and the European Sports Security Association ("ESSA"), an association of betting operators. The Panel also invited comment from every betting operator with which the TIU has a Memorandum of Understanding;
 - 56.8 companies that collect and sell match data to betting companies, including Sportradar, IMG, and Perform Group;
 - 56.9 betting oversight and enforcement units for other sports including the Hong Kong Jockey Club and UEFA;

¹⁰ REA, Chapter 1, Section E.

- 56.10 betting regulators in several countries, including the UK Gambling Commission and France's L'Autorité de régulation des jeux en ligne ("ARJEL");
- 56.11 representatives of the European Commission and representatives of the Council of Europe¹¹;
- 56.12 law enforcement in several countries, including the Victoria Police, the Office of the Racing Integrity Commissioner, the Australian National Integrity of Sports Unit, Belgian, French and Italian police officers, Italian prosecutors, and others; and
- 56.13 journalists, including authors of 'The Tennis Racket'.
57. The interviews conducted by the Panel were designed to determine the factual basis on which the issues fall to be examined. The Panel's questioning of witnesses was robust and fair, though some witnesses may have found the process difficult. Where possible, the Panel has endeavoured to corroborate witness accounts, through its questioning of other witnesses and its review of documents. As the Panel questioned more witnesses and reviewed additional documents, the Panel's understanding of the facts evolved.

B INTERVIEWS WITH PLAYERS AND THE PLAYER SURVEY

58. Representatives of the Panel interviewed approximately 115 male and female tennis players at tournaments around the world, including Chile, China, Egypt, France, Italy, Spain, Turkey, the United States, and Uruguay. Those players ranged from competitors at the lowest ITF events to top players at the ATP and WTA World Tour events and the Grand Slams, and all levels in between. The Panel was pleased by the willingness of players to take time out of their schedules to attend interviews and by the candid responses they gave in answering the questions put to them.
59. With the assistance of Westat, a statistical survey research firm, the Panel administered an online survey to players in March 2017. Informed by its in-person player interviews, the Panel drafted the survey questions with the assistance of Dr Nancy Mathiowetz, an expert in survey design and methodology. The online, confidential, and anonymous survey included questions about, among other things, players' first-hand knowledge of betting, match-fixing, and sharing of inside information for betting purposes. Invitations to take the survey were sent by email to all active ITF, WTA, and ATP players, and a link to the survey was posted on those organisations' respective player portals. In early 2017, the survey was also administered in-person at ATP Tour-level events in the United States; at these events, players were approached by Westat interviewers in the player lounge area or by tour officials in the locker rooms, handed an iPad, and asked to complete the survey. 3,218 responses were received and analysed, from 1,981 players on the men's circuit and 1,237 players on the women's circuit.

C DOCUMENT REVIEW

60. The International Governing Bodies provided the Panel with extensive documentation for review. In all, approximately 115,000 documents were produced by the International Governing Bodies, totalling an estimated 1.5 million pages. These documents predominantly covered the period from 2003 through the announcement of the Panel in January 2016. The Panel also received approximately 66,000 documents from the TIU, totalling an estimated 1.2 million pages. Additional documents were provided to the Panel on an ad hoc basis or upon request.
61. The Panel also engaged two former sports disciplinary officers, qualified criminal barristers specialising in such investigations and prosecutions, to examine the contents of, and to report to the Panel on, the approach taken in the TIU's case files from 2009 through 2016.

¹¹ Including at the 3rd International Conference on the fight against the manipulation of sports competitions in Strasbourg.

D EXPERT CONSULTANTS

62. Pursuant to the Terms of Reference, the Panel consulted various additional experts to advise and assist in this Review, including:
- 62.1 FTI Consulting (Betting Data Consultant). The Panel engaged FTI to review the data on betting alerts and other intelligence that had been provided to the TIU since 2009. FTI analysed that data to identify, among other things, trends over time and the frequency of alerts and intelligence generated by tournament type, location, round, player, ranking, age, gender, and nationality. The FTI team consisted of six individuals from the Data and Analytics practice.
- 62.2 Paul Leyland of Regulus Partners (Betting Consultancy) and Patrick Jay (Betting Expert). The Panel sought input from Mr Leyland of Regulus Partners, a strategic consultancy focused on international gambling, and Mr Jay, a former senior gaming executive for the Hong Kong Jockey Club, Ladbrokes, and IG Index. Mr Leyland and Mr Jay assisted in the Panel's appreciation of global betting markets, online betting on tennis, the various ways in which betting can present integrity issues for the sport, the nature of unusual and suspicious betting patterns, and the various indicia of match-fixing.
- 62.3 Nancy Mathiowetz (Survey Consultant). The Panel engaged Dr Nancy Mathiowetz for assistance in the design, implementation, and analysis of the player survey. Dr Mathiowetz is a former American Statistical Association/National Science Foundation Fellow at the Bureau of Labor Statistics and Special Assistant to the Associate Director, Statistical Design, Methodology, and Standards at the U.S. Census Bureau. She is currently a Professor Emerita at the University of Wisconsin-Milwaukee.
- 62.4 Westat, Inc. (Survey Data Administrator). The Panel engaged Westat, an independent survey research firm, to provide front-end data collection for the online and in-person player survey.
63. While these consulting experts assisted in various aspects of the Review, the Panel is responsible for the contents of the Interim and Final Reports and the accompanying REA.

E PROPOSALS FROM THE INTERNATIONAL GOVERNING BODIES AND THE TIU

64. During the course of this Review, and often in light of questions put to them by the Panel and discussions in Panel interviews, the International Governing Bodies and the TIU advanced proposals for changes to the current organisation of tennis as well as to the existing system for safeguarding integrity. While more limited than the Panel's proposed recommendations, these proposals have formed a useful indication of the sport's own evaluation of the difficulties currently faced. Also during the course of the Review process, and following the Interim Report, the International Governing Bodies and the TIU have begun to make some changes concerning matters addressed by the Panel, most notably in relation to the number of TIU staff and the structure of the professional sport.

F REPRESENTATION PROCESS PRIOR TO PUBLICATION OF INTERIM REPORT

65. Pursuant to the Terms of Reference, prior to publication of its Interim Report the Panel undertook a process to afford individuals and organisations potentially subject to criticism an opportunity to make representations before publication.
66. The representation process that took place before publication of the Interim Report was extensive, resulting in a substantial delay in the publication of the Interim Report. The representation process began in July 2017. All responses, bar one, were received in August and September 2017. The final set of representations was received from Jeff Rees, the former Director of the TIU, in October 2017. Mr Rees then requested that he be provided with a revised notification setting out the Panel's analysis of matters relating to him, in light of the representations then received, and that he be given an opportunity to make further representations in response. The Panel agreed to Mr Rees' request and provided him with a further opportunity to make representations. As a consequence of the approach taken with Mr Rees, a number of other parties were offered the same opportunity to make further representations. These final representations were received in late February 2018.

67. In preparing its Interim Report and the REA, the Panel fully considered all of the representations received. Those representations informed the Panel's views. Due to the length of some of those representations, the Panel endeavoured to summarise them in the REA, including quoting directly many of the key substantive points raised, rather than in its Interim Report or within this Final Report. Readers should therefore refer to the REA for a more complete recitation of the representations provided to the Panel prior to publication of the Interim Report.

G CONFIDENTIALITY OF INFORMATION

68. The TIU provided the Panel with full access to its documents, including unrestricted access to its electronic files.
69. The Panel has also been provided with all of the information it has requested from all the International Governing Bodies and from others, in a form on which the Panel can rely. Confidentiality was previously asserted in relation to one instance, described in Section VII.B below, in relation to a player's retirement, but that is no longer the case. At the consultation stage, a number of submissions made in relation to Recommendation 1 were provided in confidential form. The Panel is able to, and does, take those submissions into account, but it is not able to refer to them in this Final Report.
70. The Panel has borne in mind the need to protect the privacy and reputations of players and others who have not been the subject of completed disciplinary proceedings. Accordingly, the Panel has anonymised the cases described in this Final Report (as in the Interim Report and the REA before it) unless a case involved a completed, and reported, successful disciplinary proceeding or has already been described in previously published documents.

H CONSULTATION PROCESS

71. Following publication of its Interim Report and the REA, the Panel engaged in a consultation process on the factual findings, evaluative conclusions, and proposed recommendations contained therein. The Panel invited all interested parties to provide submissions in relation to its interim findings and proposed recommendations, for the Panel's consideration by 25 June 2018. In light of the submissions received, the Panel also afforded individuals and organisations potentially subject to criticism in the Final Report beyond that in the Interim Report an opportunity to make further representations before publication of the Final Report. Also in the light of the submissions received, the Panel where appropriate held meetings with consultees, and accepted further submissions. As a result, submissions were received up to the end of November 2018. The Panel received submissions from more than 30 parties, including tennis bodies, representatives of the data supply and betting industries (some of whose submissions represented many parties collectively), lawyers and arbitral bodies, and other interested individuals.
72. The consultation process provided an important opportunity for interested parties to ensure that all relevant input was provided, including any evidence or reasoning that might cause the Panel to reconsider its interim findings, conclusions, and recommendations. In addition, the Panel was conscious that there may have been unanticipated consequences of the Panel's proposed preliminary recommendations for particular groups, and there may have been alternative proposals for change that had not at that stage been drawn to the Panel's attention.
73. Whilst it is not possible to include reference in this Final Report to all submissions received, the Panel carefully reviewed all the materials provided and took each submission into account when determining its final position in respect of the recommendations.

V PRIOR REVIEWS OF INTEGRITY IN TENNIS

74. Two prior integrity reviews are particularly relevant to a proper understanding of the current betting-related integrity issues facing tennis, and their persistence in the sport: (1) the Ings Report; and (2) the Environmental Review.

A 2005 INGS REPORT¹²

75. Richard Ings was the head of the ATP's Anti-Doping Program and its Executive Vice President for Rules and Competition from 2000 to 2005. In the months before he left the ATP, Mr Ings drafted a report to capture his accumulated knowledge of various corruption and match-fixing allegations surrounding professional tennis. Although Mr Ings spoke to ATP players and officials about the subject matter of the report, he did not notify other executives at the ATP of his work until after he had completed the report in June 2005. The Ings Report is now available with the REA, suitably anonymised.
76. As noted above, Mr Ings found that men's professional tennis faced a "*clear*" threat of corruption. He traced that threat to the sport's acceptance of deliberate underperformance, or "*tanking*", as a relatively common practice. Mr Ings determined that the general acceptance of tanking, coupled with the "*explosion*" of online betting on tennis in the early 2000s, presented players and bettors alike with an opportunity for corrupt financial gain. Mr Ings further found that the prevailing "*climate of silence ...and apathy*" toward corruption made it difficult to address this growing problem. As support for his conclusions, Mr Ings catalogued admissions by professional tennis players to match-fixing, betting on tennis, being offered financial inducements by bettors, and cultivating friendships with bettors. Mr Ings also attached as an appendix a "*full list of matches with unusual betting patterns*", which included 37 matches from 2002 to 2005. While the Ings Report stated that "*to date this inquiry has not determined that any individual competing or associated with any of these matches has violated any ATP Rules*", it also noted that inquiries into those matches were ongoing and left open the possibility of further investigation. Ultimately, Mr Ings warned that tennis was "*at a crossroads of credibility that [could] only be resolved with a resolute commitment from the players, their support teams and their elected leadership to eradicate underperformance, corruption and corrupt individuals from the game*".
77. The Ings Report set out 20 recommendations to combat the threat of corruption in tennis. Many of those recommendations focused on educating players about the dangers of corruption, improving security at tournament venues, and enhancing the International Governing Bodies' enforcement capabilities. But other significant recommendations in the Ings Report suggested addressing the incentives that drove player underperformance, including the implementation of a ranking system that would "*make every match count*".
78. Gayle Bradshaw, who became the ATP's Executive Vice President, Administrator, Rules and Competition in 2005, told the Panel that although the ATP did not respond directly to the Ings Report, it did in the following three years implement changes that at least partially addressed all but two of the Ings Report's 20 recommendations. The ATP's response, however, did not significantly reduce, much less eliminate, the "*clear*" threat of corruption that the Ings Report observed, as demonstrated by the ensuing Environmental Review in 2008.

¹² REA, Chapter 7 Section A(4).

B 2008 ENVIRONMENTAL REVIEW¹³

79. Approximately three years after the Ings Report, the International Governing Bodies formally commissioned another comprehensive review. In the wake of a suspicious, and high profile, August 2007 match played in Sopot, Poland between Nikolay Davydenko and Martin Vassallo Arguello, the International Governing Bodies engaged Ben Gunn, the Chairman of the British Horseracing Authority's Security Review Board, and Jeff Rees, the former head of the International Cricket Council's anti-corruption unit, to review *"the threats to the integrity of professional tennis worldwide"*. During their review, Mr Gunn and Mr Rees interviewed 95 tennis stakeholders and analysed a variety of statistics, documents, and other materials. In addition, they reported to have examined 73 matches that had been flagged for suspicious betting patterns, including 45 matches *"arising out of the Sopot Match"* that *"warrant[ed] further review"* because of *"specific concerns from a betting perspective"*.
80. The ensuing Environmental Review, which was completed in May 2008, concluded that *"professional tennis is not institutionally or systematically corrupt"*. But Mr Gunn and Mr Rees found *"strong intelligence indications"* that certain groups of players, such as young players in the lower levels of the sport, were *"vulnerable to corrupt approaches"*. Mr Gunn and Mr Rees attributed this vulnerability to several factors, including the one-on-one nature of the sport, which makes matches easier to fix because only one player needs to be compromised; the fact that each match comprises a series of discrete actions, which allows a player to manipulate a match without affecting the ultimate outcome; and the liquidity of the betting markets, which facilitates larger and more frequent payoffs for corrupt actors. Like Richard Ings, Mr Gunn and Mr Rees found substantial evidence that betting-related corruption was already impacting professional tennis: *"A large majority of current and former players we interviewed claimed to 'know of' approaches to players being invited to 'throw matches' presumably for corrupt betting purposes"*.
81. The Environmental Review proposed 15 recommendations to safeguard tennis against corruption-related threats. In line with the Ings Report, the Environmental Review proposed 11 recommendations designed to create an environment that discourages corruption and to enhance anti-corruption enforcement. Among the recommendations were that: (1) the International Governing Bodies should study matches that do not count toward players' rankings and, if that study shows that those matches *"are vulnerable to the integrity of tennis, then careful consideration should be given to the Ranking Rules being changed to make each match count"*; and (2) the International Governing Bodies should review the *"current accreditation procedures"* for tennis events.
82. The remaining recommendations, which Mr Gunn and Mr Rees described as *"crucial"*, proposed creating (1) a *"Uniform Anti-Corruption Programme"*, to harmonise the various regulations and codes of conduct governing professional tennis; and (2) a new *"Integrity Unit"*, to investigate integrity-related offences. In their Environmental Review, however, Mr Gunn and Mr Rees disagreed about the appropriate model for the new Tennis Integrity Unit. Mr Gunn advocated a seven-person unit, with full-time positions for an Intelligence Analyst, a Betting Analyst, and a manager to exercise day-to-day oversight over intelligence and investigations. In contrast, Mr Rees proposed a smaller, five-person unit, to include an Information Manager but no Betting Analyst. These competing models reflected, at least in part, the investigators' disparate assessments of the threat then facing tennis and their differing views as to the importance of betting data and the use to which it could be put. Echoing Mr Ings' comments from three years earlier, Mr Gunn took the view that tennis was *"potentially at a crossroads"*. By contrast, Mr Rees adopted the view, which he ascribed to the *"majority of interviewees"*, that *"the overall threat to the sport from betting related corruption was minimal"*. The International Governing Bodies ultimately hired Mr Rees as the TIU's first Director of Integrity and adopted his proposed model.

¹³ REA, Chapter 8 Section B.

VI NATURE AND EXTENT OF THE INTEGRITY PROBLEM IN TENNIS

83. To some degree, all professional sports face threats to integrity, often driven by betting. As both the Ings Report and the Environmental Review observed, and as the Panel has also found, however, distinctive aspects of tennis make it particularly susceptible to match-fixing and related breaches of integrity. Indeed, as the Ings Report remarked, *“if a sport could have been invented with the possibility of corruption in mind, that sport would be tennis”*. Since these prior reviews, tennis has only become more vulnerable as the opportunities to bet on tennis have multiplied with the International Governing Bodies’ sale of official live scoring data for betting purposes. Although it is impossible to quantify the full extent of the problem with great precision, because much of it is deliberately hidden, there is ample evidence that betting-related breaches of integrity have persisted and grown in professional tennis, particularly at the Lowest and Mid-Levels of the men’s game.

A THE SUSCEPTIBILITY OF PROFESSIONAL TENNIS TO BREACHES OF INTEGRITY¹⁴

84. The imbalance between prize money and costs is foremost among the several circumstances that render professional tennis vulnerable to breaches of integrity. The vast majority of nominally professional players, of whom there are as many as 14,000, are unable to make a living through competition. While players ranked in the top 100, and possibly down to around 150, can generally earn a living from prize money and sponsorships, at the lower rungs of the sport the available money is small and the costs are high. An ITF review in 2014 determined that the *“break even”* point – the ranking where a player earned as much money from professional tennis as he or she spent on costs – was 336 and 253 in the worldwide rankings for men and women, respectively. Those figures do not include coaching costs, and the real break even point is likely at a higher ranking than these figures suggest. Accordingly, of the thousands of players currently playing professional tennis, most belong to the constant underclass who cannot make a living by competing. While a lucky few may receive national federation assistance, most players must be funded by parents and other backers.
85. A comparison of the costs and available prize money for players at the Lowest Level of professional tennis – ITF men’s and women’s \$15k or \$25k events – underscores this point. The ITF’s review in 2014 demonstrated that the average costs of playing professional tennis, excluding coaching, were \$38,800 for men and \$40,180 for women. On the other hand, the winner of a singles tournament at that level is unlikely to receive more than \$4,000. As a result, a player at that Lowest Level would need to win at least ten tournaments in a year just to break even, without any accounting for coaching. By comparison, at the ATP World Tour level, the loser in a first-round singles event will typically earn over \$10,000.
86. Those financial challenges are compounded by stagnation at the Lowest and Mid-Levels as well as the inadequacy of the player pathway. Of the many thousands of nominally professional players, at present only a handful have the ability and perseverance to advance through the ranks and the various levels of tennis. The others reach a point beyond which they will not progress, yet many remain in the sport, becoming disillusioned.
87. In these circumstances, some players, or their financial backers, are tempted to use betting to secure the funding they need to continue. Players may *“self-fund”* by betting on themselves to lose a match which they are happy to lose in any event so that they may move on to another tournament; or they may bet on specific contingencies, such as themselves to lose a particular game or set, which they then ensure that they do. Or they may provide inside information as to their intentions, fitness, or form to others, such as their backers. Such low-level activity may not only breed a culture of acceptance that such behaviour is harmless and acceptable, but also may escalate into fixing matches to facilitate larger-scale betting by others.

¹⁴ REA, Chapter 4, Section A(4) and Chapter 14, Section A.

88. The low quality of the tournament facilities at the Lowest and Mid-Levels of tennis have failed effectively to counteract breaches of integrity. Each year, there are well over 1,000 ITF men's and women's events and approximately 150 men's ATP Challenger events, all over the world. In contrast to the more lucrative ATP and WTA World Tour events, most of these tournaments are currently played at small venues and attract few, if any, public spectators. While these events are required to have an accreditation system and to limit access to player-only areas, as a practical matter there is often little or no segregation of the players, who are often within eyesight or earshot of non-accredited individuals. This facilitates corrupt approaches and allows bettors to obtain inside information about players. Moreover, the absence of security and spectators reduces opportunities to deter and detect improper activities. And at ITF \$15k and \$25k events at present, the level of officiating is generally lower, and there is often only a single chair umpire acting as on-court official, sometimes without the support of a line umpire.
89. Moreover, the subtlety of tennis, in which a small margin of effort, or lack of effort, can decide a point, game, set, or match, renders deliberate underperformance by an individual player difficult to detect. Even when a player may be suspected of underperforming, that underperformance may be attributed to 'tanking' for reasons unrelated to betting.
90. In addition, each point, game, and set presents a unique opportunity to bet. A player can throw a point, game, or set, or engage in a specific action such as a double fault or sequence of point losses, even without altering the ultimate outcome of a match. A player need not lose the match to make money from fixing.
91. Structural aspects of professional tennis currently compound these vulnerabilities by incentivising and tolerating a culture of deliberate underperformance for reasons unconnected with betting. Players perceive on occasion that in light of the low level of prize money relative to costs, they are better served by losing a match than by winning it – if, for example, they wish to move on to, or rest for, an upcoming, more lucrative tournament. Some players act on that perception. The crowded professional tennis schedule (with final rounds of one event regularly overlapping qualification rounds for the next event) and the distribution of prize money also contribute to this phenomenon, in particular when a player is competing in a less lucrative doubles competition after having been eliminated from the singles draw, or when a more lucrative national level "*money match*" is available.
92. In addition, withdrawal penalties may discourage a player from simply not playing a tournament, and instead incentivise the player to take the court and lose. While withdrawal penalties do not apply if a player is deemed "*unfit to play*", a player must, at least at the ITF level, presently visit the doctor at the tournament to establish this and, after incurring the cost of traveling to the tournament, may be incentivised to play even when too injured to compete. The ATP informed the Panel on consultation that this was not the position at ATP events because players who cannot travel (or where travel may delay recovery) can submit an appeal against the withdrawal penalty. Nevertheless, some players may still choose to take the simpler course of playing while unfit rather than appealing and producing evidence. That phenomenon has also arisen when, despite injuries that render them unfit to compete, players take to the court because the prize money for losing in the first round at certain events (such as the Grand Slams) represents too large a proportion of their annual income to be foregone. A similar situation arises when players stay in a tournament just long enough to secure appearance fees.
93. Because deliberate underperformance is frequent in tennis, corrupt play is more difficult to detect. In addition, as recognised in the Ings Report, deliberate underperformance sows the "*seeds of corruption*" by promoting a culture of tanking. It is a smaller step for players who already intend not to compete vigorously, to bet on themselves to lose or to pass on information about their plans, than it is for players who always compete to win. Moreover, inside information about a player's intentions to lose may leak out, and result in betting. Even a player who underperforms for reasons unrelated to any financial inducement may foster a perception that professional tennis has been corrupted by betting. Yet a player who deliberately underperforms for reasons unconnected with betting is not treated as having committed any offence under the TACP, and the International Governing Bodies rarely apply their Codes of Conduct to penalise players for failing to use "*best efforts*".

94. Finally, as the prior reviews have observed, the use of a “best of” ranking system for both men’s and women’s singles provides little disincentive to deliberate underperformance. Under this system, a male player’s best 18 tournaments in a rolling year count towards his ranking, while a female player’s best 16 tournaments in a rolling year count towards her ranking. As a result, a player who competes in a greater number of tournaments – as most do – may not suffer any adverse ranking impact from underperformance. In other words, not every match counts.

B THE GROWTH OF ONLINE BETTING ON TENNIS AND THE SALE OF OFFICIAL LIVE SCORING DATA¹⁵

95. In recent years, the proliferation of opportunities to bet on tennis has greatly exacerbated the threat described above. At its simplest, more betting opportunities create more opportunities to fix matches, or parts of them, for financial gain. But the explosion of betting on tennis has also intensified the threat of breaches of integrity because of the range of bets that are now available. While betting in the past was largely limited to the outcome of tennis matches played at the most important tournaments, in many parts of the world today, websites allow for the placement of bets on a wide range of contingencies in each of the tens of thousands of matches played every year, at all levels of tennis. And the fact that such betting opportunities are now widely available at the lower levels of the sport, the most susceptible to breaches of integrity, means that the integrity threat facing tennis has grown at a rate greater than if it had been driven solely by the increase in available matches for betting.
96. Two developments primarily account for the increased opportunities to bet on tennis. First, the internet has significantly increased the popularity of sports betting generally, leading bettors and betting operators to expand their focus from more traditional betting sports, such as horse racing and football (soccer), to other sports like tennis. Today, tennis is assessed to be the fourth largest global betting market in terms of the total amount bet – behind only football (soccer), horseracing, and cricket.
97. Second, in the past several years, the ATP, WTA, and ITF have entered into contracts to sell live scoring data for almost all their events. The ATP and WTA agreed to sell their live scoring data to Enetpulse in 2011, and the ITF agreed to sell its live scoring data to Sportradar in 2012. While generating millions of dollars in revenue annually, those contracts have permitted betting operators to offer a far broader range of bets on a far greater number of tennis matches, especially at the Lowest Level of ITF events. Before this data became available, betting operators could not offer in-play markets unless: they purchased unofficial data from a data supply company that had entered into a data sales agreement with an individual tournament or otherwise; they sent their own scouts to an event; a match was available on a live broadcast; or scores were capable of being instantly ‘scraped’ from the internet.
98. The available evidence suggests that betting operators created online betting markets for ATP Challenger events in this way before 2011. In particular, as early as 2003, betting operators set out to use ATP Challenger events to fill the time gaps in their offerings at times when there were no available Tour events on which to create betting markets. In light of the demand for betting on tennis, and the inevitability of such time gaps, it is likely that the ATP Challengers and their WTA and ITF Mid-Level equivalents (which cater principally to players ranked between approximately 150 and 350) would once again be subject to such action even without live scoring data. Indeed, the ATP considered that its sale of official live scoring data to Challenger matches was beneficial to the protection of integrity because it allowed the sport to ensure the quality of the data, and to require integrity-related assistance from the betting operators to whom it was sold, in circumstances where betting markets would arise anyway.

¹⁵ REA, Chapter 3; Chapter 14, Section A(1).

99. The ITF considered that its sale of data was similarly justified. In this regard the Panel has been provided with evidence that there was betting on ITF matches before the ITF data deal in 2012. The ITF informed the Panel that a number of tournaments in Turkey, Italy, Germany, France, and Sweden had individual data deals. Sportradar informed the Panel that it offered coverage on over 7,000 ITF matches in 2011. This coverage was, at least in part, due to the individual data deals that Sportradar had in place with tournaments.
100. Nevertheless, the Panel has seen little evidence, before the publication of the Interim Report or during the consultation process, that betting was widespread on the Lowest Level of ITF events before the ITF data deal in 2012. The Panel did not see evidence of alerts or match-fixing allegations arising in relation to the ITF men's or women's \$15k or \$25k events before the establishment of the TIU in 2009. In the period from 2009 to 2011, the TIU received only three alerts in relation to matches played at the ITF level.
101. The growth in coverage at the ITF level following the data deal in 2012 is clear. In 2013, the year after the first ITF-Sportradar contract, 40,000 matches at ITF men's and women's \$15k and \$25k events were made available to the betting market. By 2016, that number had increased to over 60,000 matches and has remained at that level in 2017 and 2018. The number of Match Specific Alerts received by the TIU steadily increased over the period 2013 to 2018, with 15 in 2013, 58 in 2014, 141 in 2015, and 240 in 2016. That total dropped to 192 in 2017, but then rose again in 2018, to a projected 287 (with 253 alerts having been received by the end of November 2018)¹⁶.
102. In the Panel's assessment there is a strong causal connection between the sale of official live scoring data to the Lowest Level and the growth in betting on matches at that level.

C EVIDENCE AS TO INCIDENCE AND LOCATION OF BREACHES OF INTEGRITY IN TENNIS¹⁷

103. The precise scope of the integrity problem facing professional tennis is difficult to quantify, not only because corrupt activity is by its nature deliberately concealed and often evades detection, but also because some of the indicators of such activity may have innocent explanations. The extent of potential breaches of integrity that are not reported and are not otherwise capable of being quantified likely varies across the levels of the sport. At the Lowest Levels of professional tennis, there are few or no observers and breaches of integrity are less likely to be detected.
104. Nonetheless, the available evidence is largely consistent in revealing that betting-related corruption and other breaches of integrity have taken firm root in professional tennis, in particular at the Lowest and Mid-Levels of the men's game, and may well be increasing and spreading.

¹⁶ The additional alerts reported for 2017 were provided to the Panel following the publication of the Interim Report, based on alerts reported after 31 Dec 2017. The projected figures for 2018 are explained in Section VI.D below.

¹⁷ REA, Chapter 13.

D DATA STORED IN THE TIU DATABASE

105. The first source of available evidence is the TIU's records, which includes the alerts and intelligence that the TIU received from 2009 through to 2018¹⁸. These data (collectively referred to as "Match Specific Alerts") include: (1) suspicious betting patterns for specific matches reported by betting operators to the TIU ("Betting Match Alerts"); and (2) possible breaches of integrity for specific matches reported to the TIU by, amongst others, players and other tennis participants, members of the public (including bettors), and the media ("Other Match Alerts"). The tally of Match Specific Alerts is likely to be both under-inclusive, as it necessarily reflects only what has come to light, and over-inclusive, because Match Specific Alerts do not all reflect actual breaches. While it would be a mistake to draw any direct conclusions about the extent and distribution of integrity issues in tennis solely from Match Specific Alerts, Betting Match Alerts, or Other Match Alerts, these data at least provide some relevant quantitative information to be considered with other available evidence.
106. Pursuant to Memoranda of Understanding ("MoUs"), many, but not all, betting operators commit to provide the TIU with Betting Match Alerts if they detect suspicious or unusual betting activity on a tennis match. No industry or uniform standard exists for issuing such alerts, but, generally, *"a betting pattern is deemed unusual or suspicious when it involves unexpected activity with atypical bet sizes or volumes that continue, even after significant price corrections have been made in order to deter such activity in the market"*. To illustrate, a Betting Match Alert may issue from a match where multiple large bets are placed on a significant underdog to win, even as the odds continue to adjust against the bet. A Betting Match Alert might also arise if an outsized and successful in-play bet is placed on an obscure match.
107. As the TIU has observed, a Betting Match Alert is *"an indicator that something may have happened"*. Standing alone, Betting Match Alerts generally do not provide conclusive evidence of a breach of integrity because unusual or suspicious betting patterns can result from innocent circumstances, such as incorrect odds setting. But if a betting pattern is particularly unusual and inexplicable, it may provide a strong indication of a breach of integrity, and in some circumstances unusual betting patterns can provide sufficient evidence to establish some types of breaches of integrity. In any event, Betting Match Alerts constitute a trigger for the TIU's attention and may provide at least supporting evidence of an integrity offence. Consequently, all Betting Match Alerts should be taken seriously and assessed in the context of the other available evidence about a suspect match.
108. Other Match Alerts from players and other participants may also provide credible evidence of a breach of integrity or valuable intelligence that warrants opening an investigation. Nonetheless, because not all information about potential breaches of integrity is reported and not all reports reflect actual breaches, the incidence of Other Match Alerts may not accurately measure the incidence of breaches of integrity. As with Betting Match Alerts, however, Other Match Alerts constitute a trigger for the TIU's attention and may help in proving an offence.

¹⁸ For the purposes of its Review, the Panel reviewed data stored in the TIU database through November 2018 (as December 2018 data were not yet available). Figures for December 2018 have been projected to give a view of the whole of 2018. Those projections are based on historical analysis of alerts in the period from 2016 to 2018 at different levels of tennis, including the historic ratio of alerts received in December relative to the rest of the year.

(1) Match Specific Alerts in the period 2009 to 2017

109. With those important caveats in mind, FTI Consulting assisted the Panel in analysing the TIU's data from its inception in 2009 through 2017 for the purposes of the Interim Report¹⁹. As shown by Table 1, during that period, the TIU received a total of at least 1,391 Match Specific Alerts²⁰, of which 1,046 (75%) were Betting Match Alerts. Although the number of overall Match Specific Alerts varied from 2009 to 2012, the total of Match Specific Alerts never exceeded 77 in any of those four calendar years. More recently, however, the frequency of Match Specific Alerts has increased dramatically, from 53 in 2013 and 106 in 2014, to 269 in 2015 and 406 in 2016. In 2017, the total number of Match Specific Alerts decreased against the previous year for the first time since 2011. However, the total of 354 Match Specific Alerts in 2017 was still comfortably the second highest recorded annual total at that point.

Table 1: Match Specific Alerts, Betting Match Alerts, and Other Match Alerts, by Level of Tennis, 2009 to 2017

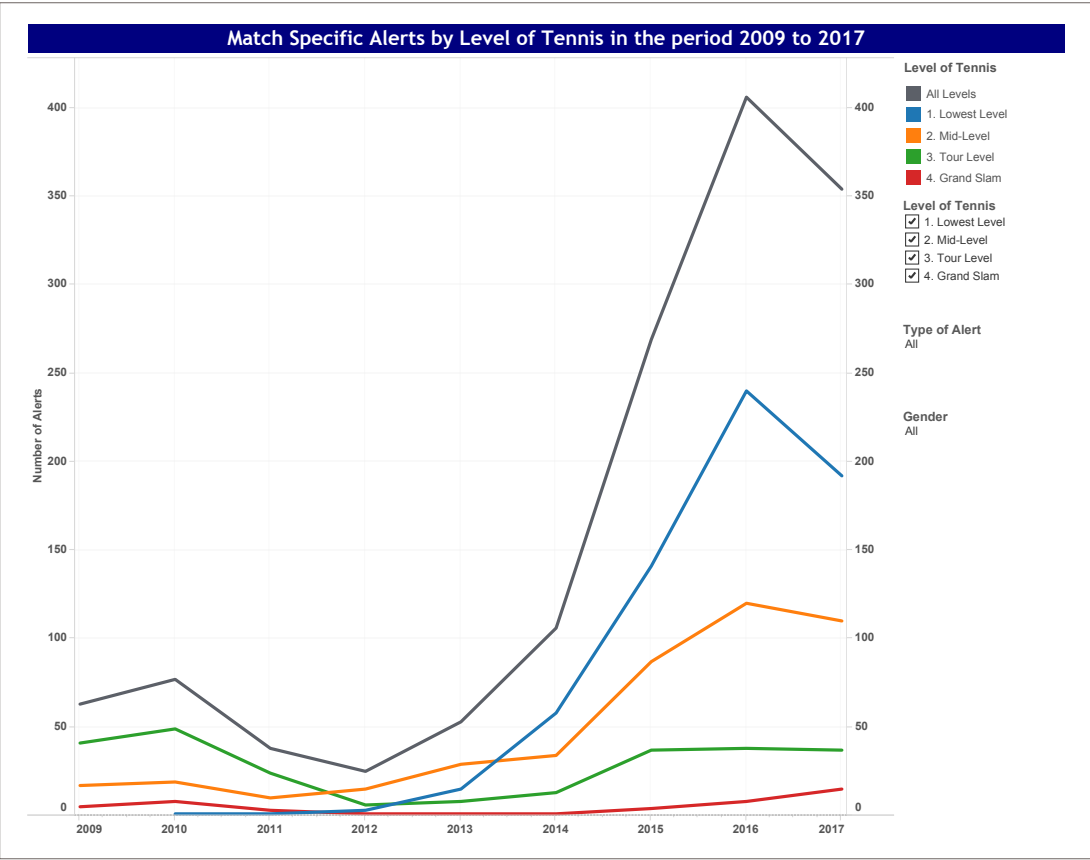
Level of sport	Attribute	2009	2010	2011	2012	2013	2014	2015	2016	2017	2009-2017	2013-2017
Grand Slam	Match Specific Alerts	5	8	3	1	1	1	4	8	15	46	29
	<i>Betting Match Alerts</i>	5	8	3	1	1	-	2	5	7	32	15
	<i>Other Match Alerts</i>	-	-	-	-	-	1	2	3	8	14	14
Tour Level	Match Specific Alerts	41	49	24	6	8	13	37	38	37	253	133
	<i>Betting Match Alerts</i>	29	44	24	6	6	5	28	3	10	155	52
	<i>Other Match Alerts</i>	12	5	-	-	2	8	9	35	27	98	81
Mid-Level	Match Specific Alerts	17	19	10	15	29	34	87	120	110	441	380
	<i>Betting Match Alerts</i>	9	17	9	15	26	21	64	77	78	316	266
	<i>Other Match Alerts</i>	8	2	1	-	3	13	23	43	32	125	114
Lowest Level	Match Specific Alerts	-	1	1	3	15	58	141	240	192	651	646
	<i>Betting Match Alerts</i>	-	-	1	2	9	38	126	206	161	543	540
	<i>Other Match Alerts</i>	-	1	-	1	6	20	15	34	31	108	106
All Levels	Match Specific Alerts	63	77	38	25	53	106	269	406	354	1,391	1,188
	<i>Betting Match Alerts</i>	43	69	37	24	42	64	220	291	256	1,046	873
	<i>Other Match Alerts</i>	20	8	1	1	11	42	49	115	98	345	315

¹⁹ The Interim Report reflected the TIU's records as at 31 December 2017. In preparing this Final Report the Panel has identified a further 9 Other Match Alerts that, whilst reported to the TIU in 2018, concern the period covered in the Interim Report. Specifically, the TIU received two further Other Match Alerts concerning the Mid-Level (one for 2016 and one for 2017) and seven further Other Match Alerts concerning the Lowest Level (for 2017). The numbers reported in this Final Report have been amended accordingly.

²⁰ The TIU began using the "TIU Package" system in 2013, as described in REA, Chapter 10, Part 2, Section B(3) and it began loading packages into its Clue database beginning in 2016. It is possible that further Match Specific Alerts were received before 2013 that have not been identified by the Panel's analysis.

110. The following two graphs display: first, the trends described above (Graph 1) and second, the differences between the men's and women's game (Graph 2), in each case up to the end of 2017. Graph 2, which is broken down by gender demonstrates that most of the growth in Match Specific Alerts between 2012 and 2017 arose from men's ITF and ATP Challenger events, coinciding with the sale of official live scoring data for ITF and ATP Challenger events²¹. The TIU's data show that the number of Match Specific Alerts for ATP Challenger events increased from 29 in 2013 and 32 in 2014, to 80 in 2015 and 116 in 2016, before decreasing to 104 in 2017²². Similarly, the number of Match Specific Alerts for ITF men's \$25k and \$15k events combined increased from 14 in 2013 and 44 in 2014, to 107 in 2015 and 176 in 2016, before decreasing to 150 in 2017²³.

Graph 1: Match Specific Alerts, by Level of Tennis, 2009 to 2017

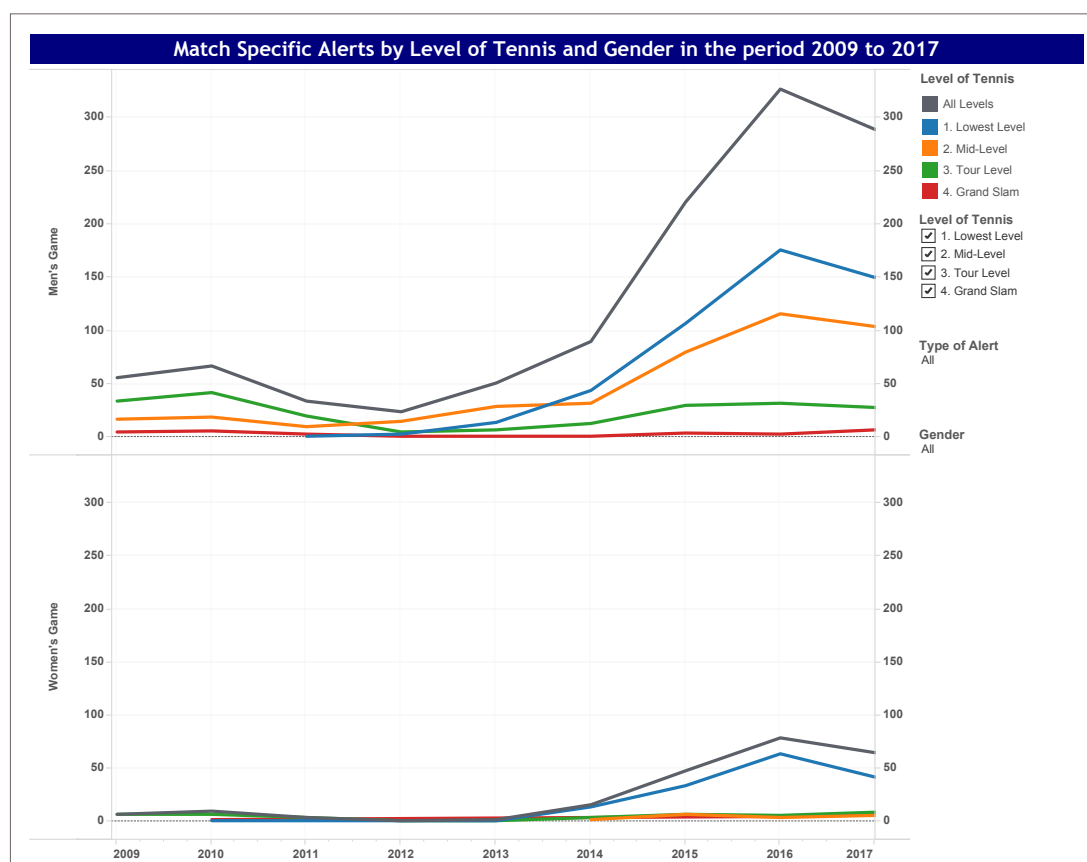


²¹ More specifically, the growth was attributable to Betting Match Alerts (which are not separately represented in Graph 2 but are described in further detail in REA, Chapter 13 Section B).

²² The balances in the Mid-Level row of Table 1 are accounted for by Match Specific Alerts in women's Mid-Level tennis.

²³ The balances in the Lowest Level row of Table 1 are accounted for by Match Specific Alerts in women's Lowest Level tennis.

Graph 2: Match Specific Alerts, by Level of Tennis and Gender, 2009 to 2017



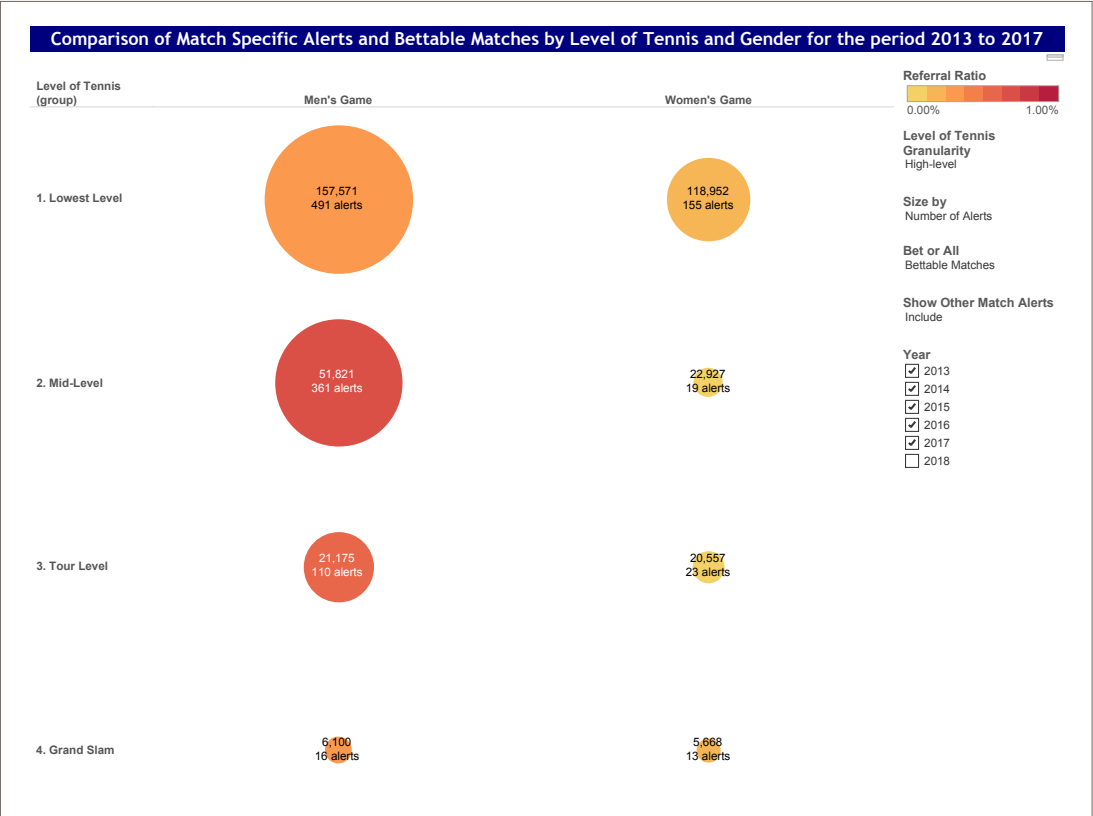
111. While the TIU data reveal that the total number of Match Specific Alerts decreased to 354 in 2017, from 406 in 2016 that total of 354 was still well above the 2015 level of 269 Match Specific Alerts. The Panel's comparative analysis of Match Specific Alerts from the men's and women's game from 2009 through 2017 shows that, while women's professional tennis has become responsible for an increasing share of Match Specific Alerts, the incidence of Match Specific Alerts for professional women's matches remains much lower than for men's events. In 2017, there was approximately one Match Specific Alert per 165 men's matches calculated as "Betttable Matches"²⁴, while it took approximately 557 Betttable Matches in the women's game to produce a single Match Specific Alert²⁵.

²⁴ FTI's concept of and methodology for calculating Betttable Matches (or "bet availability") is described in the FTI Report and in REA, Chapter 13. In summary "Betttable Match" means a match on which bets could be placed on a market created by a betting operator using official live scoring data.

²⁵ In 2017, the men's game accounted for 289 Match Specific Alerts (and 47,689 Betttable Matches), whereas the women's game accounted for 65 Match Specific Alerts (and 36,229 Betttable Matches). The concept and methodology for the calculation of "Betttable Matches" is described in the FTI Report and in REA, Chapter 13.

112. Considering men’s and women’s events together, for 2013 to 2017, the number of Match Specific Alerts as a percentage of the total number of Bettable Matches (“Referral Ratio”) at the “Lowest Level”²⁶ and “Mid-Level”²⁷ were 0.23% (1 in every 428 matches) and 0.51% (1 in every 197 matches), respectively²⁸. However, considering the men’s game separately, the Referral Ratio for ITF men’s \$15k and \$25k events from 2013 to 2017 was 0.31% (1 in every 321 matches), while the Referral Ratio during that same period for ATP Challenger events was 0.70% (1 in every 144 matches)²⁹. In 2017, the Referral Ratios for ITF men’s \$15k and \$25k events and ATP Challenger events increased further to 0.47% (1 in every 214 matches) and 1.01% (1 in every 99 matches), respectively³⁰. Graph 3 below illustrates the comparative incidence of Match Specific Alerts at the different levels based on the data in the TIU database by comparing the total Match Specific Alerts and Bettable Matches in the period 2013-2017. The size of the circles represents the number of Match Specific Alerts at each level of the men’s and women’s game, while the colours of those circles illustrate the Referral Ratios (incidence) of such alerts based on the number of matches available for betting at each level and type of competition. Graph 4 further divides each level and gender into singles and doubles.

Graph 3: Comparison of Match Specific Alerts and Bettable Matches, by Level of Tennis and Gender, 2013 to 2017³¹



²⁶ The “Lowest Level” is made up of ITF men’s and women’s \$15k and \$25k events.

²⁷ The “Mid-Level” is made up of ATP Challenger, ITF women’s \$60k-100k and WTA \$125k events.

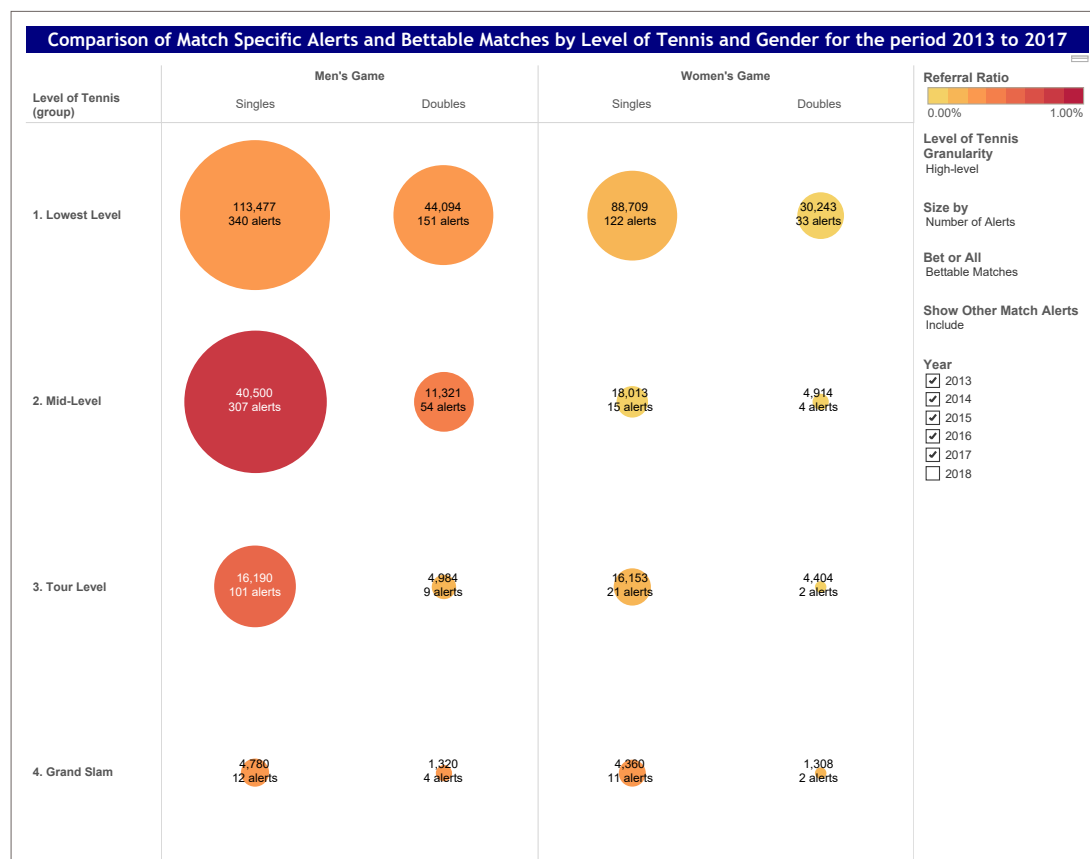
²⁸ The combined Referral Ratio for all levels taken together was 0.29% in the period 2013 to 2017.

²⁹ By comparison, the Referral Ratios for the Lowest Level and Mid-Level of the women’s game were 0.13% (1 in every 767 matches) and 0.08% (1 in every 1207 matches) in the period 2013 to 2017.

³⁰ The 2017 totals were lower than in 2016, which were 0.53% (1 in every 187 matches) for the Lowest Level of the men’s game and 1.06% (1 in every 95 matches) for the Mid-Level of the men’s game.

³¹ The Referral Ratio is fixed as a 0.0% to 1.0% (or higher) range and is displayed as an eight-step (0.125%) gradient. The eighth and darkest red therefore represents a Referral Ratio of 0.875% or higher.

Graph 4: Comparison of Match Specific Alerts and Bettable Matches, by Gender, Level of Tennis and Singles/Doubles, 2013 to 2017



113. The Panel notes that the Referral Ratios for both the Tour Level (0.45%) and Grand Slam Level (0.64%) were somewhat high in 2017. These Referral Ratios, however, were driven by a relatively small number of Match Specific Alerts; there were only 15 Match Specific Alerts at the Grand Slam Level and 37 Match Specific Alerts at the Tour Level in 2017. In addition, as discussed below, the other sources of evidence that the Panel has considered suggest that while betting-related integrity concerns are quite significant at the Lowest and Mid-Levels of professional tennis, the Tour and Grand Slam levels, while not immune, do not now face a problem of nearly the same dimension. Moreover, in terms of volume of potential integrity issues based on Match Specific Alerts, the Lowest and Mid-Levels of the sport generate the clear majority of concerns. For example, in 2017³²:

113.1 85.3% of all Match Specific Alerts were generated by matches at the Lowest and Mid-Levels of the sport, while only around 4.2% of Match Specific Alerts were generated by Grand Slam Level matches and 10.5% by Tour Level matches.

³² FTI's methodology for calculating Betttable Matches (or "bet availability") is described in the FTI Report. Betttable Matches (and therefore, Referral Ratios) in 2017 and 2018 for the Lowest Level of the men's and women's game have been estimated. Sportradar provided data for the period 2013 to 2016, broken down by match, allowing FTI to calculate bet availability for ITF matches offered and sold to betting operators. For 2017, Sportradar provided the total number of ITF matches offered and sold to betting operators that year.

- 113.2 42.5% of all Match Specific Alerts were generated by the ITF men's \$15k and \$25k matches and 29.4% of Match Specific Alerts were generated by ATP Challenger matches, while 38.4% and 12.3% of all Bettable Matches across the sport as a whole were played at those levels respectively.
- 113.3 11.9% of Match Specific Alerts were generated by the ITF women's \$15k and \$25k matches and 1.7% of Match Specific Alerts were generated by WTA \$125k and ITF \$60-100k matches, while 30.4% and 6.2% of all Bettable Matches across the sport as a whole were played at those levels respectively.
114. The data also show that 851 players were subject to at least one Match Specific Alert between 2013 and 2017. Although a single Match Specific Alert by no means demonstrates that a player has committed a breach of integrity, the likelihood that a player has committed one or more breaches of integrity generally rises with an increase in the number of Match Specific Alerts concerning that player. Of those 851 players, 138 (16%) were the subject of three or more Match Specific Alerts in that same period, 23 players were the subject of six to ten Match Specific Alerts, and five players were the subject of over ten Match Specific Alerts. The player who most frequently arose in the data was the subject of 16 Match Specific Alerts in that five-year period.
115. At the time of the Interim Report, FTI Consulting had further assisted the Panel in breaking down the TIU figures on several dimensions, in addition to levels of the sport, gender, and incidence of Match Specific Alerts by player. Those findings are contained in the tables and graphs presented in REA, Chapter 13, and the FTI Report, which are available online along with this Final Report.

(2) Match Specific Alerts in 2018

116. Following publication of the Interim Report, FTI Consulting assisted the Panel to analyse the TIU's data for 2018 on the same basis as for 2009 to 2017. At the date of this Final Report, data for the whole of 2018 were not available. FTI had data in respect of January through November, but data for December were not available. Based on the available 2018 data and on their analysis of 2009 to 2017, FTI have projected total Match Specific Alerts and other figures to the end of 2018. Those projections are based on analysis of alerts received in the period 2016 to 2018 at different levels of tennis, including the historic numbers of alerts received in December in comparison to the rest of the year.³³

³³ Specifically, FTI created projections for December 2018 alerts by: (1) calculating an average of the ratios of alerts received in December 2016 and 2017 in comparison to alerts received in January to November 2016 and 2017; and (2) multiplying the ratio by the relevant number of alerts received in January to November 2018 (rounding down to the nearest whole number). In some cases this resulted in a projection of zero alerts because either no tennis is played at that level in December (for example, Grand Slams) or the application of the relevant ratio resulted in zero projected alerts (for example, ATP Challengers) or less than one projected alert (for example, ITF \$25k events).

Table 2: Match Specific Alerts, Betting Match Alerts and Other Match Alerts, by Level of Tennis, in the period 2013 to 2017, to the end of November 2018, and with a projection to the end 2018

Level of sport	Attribute	2013	2014	2015	2016	2017	2018 (to Nov)	2018 (proj.)	2013- 2018 (proj.)
Grand Slam	Match Specific Alerts	1	1	4	8	15	16	16	45
	<i>Betting Match Alerts</i>	1	-	2	5	7	3	3	18
	<i>Other Match Alerts</i>	-	1	2	3	8	13	13	27
Tour Level	Match Specific Alerts	8	13	37	38	37	19	19	152
	<i>Betting Match Alerts</i>	6	5	28	3	10	6	6	58
	<i>Other Match Alerts</i>	2	8	9	35	27	13	13	94
Mid-Level	Match Specific Alerts	29	34	87	120	110	76	76	456
	<i>Betting Match Alerts</i>	26	21	64	77	78	44	44	310
	<i>Other Match Alerts</i>	3	13	23	43	32	32	32	146
Lowest Level	Match Specific Alerts	15	58	141	240	192	253	287	933
	<i>Betting Match Alerts</i>	9	38	126	206	161	191	212	752
	<i>Other Match Alerts</i>	6	20	15	34	31	62	75	181
All Levels	Match Specific Alerts	53	106	269	406	354	364	398	1,586
	<i>Betting Match Alerts</i>	42	64	220	291	256	244	265	1,138
	<i>Other Match Alerts</i>	11	42	49	115	98	120	133	448

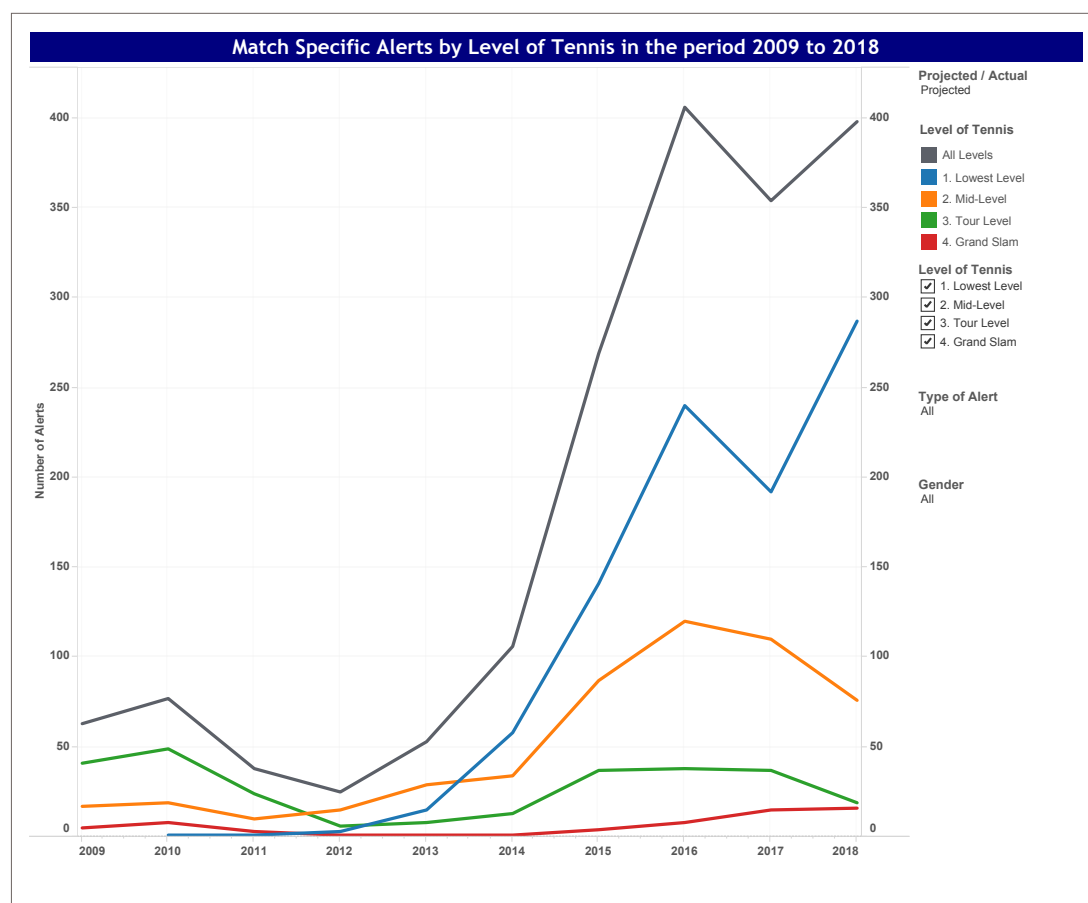
117. As shown by Table 2 above, in 2018 to the end of November 2018, the TIU received 364 Match Specific Alerts (at All Levels):

117.1 in comparison to 2017, that number represents 102.8% of the 2017 annual total (354); and

117.2 in comparison to 2016, that number represents 89.7% of the 2016 annual total (406).

118. The projected total number of Match Specific Alerts for 2018 is 398, which would be the second highest in any year between 2009 to 2018, and comparable to the highest number of Match Specific Alerts received in any year (406 in 2016). Graph 5 below compares the Match Specific Alerts received in each year for the period 2009 to 2018 (with the figure for the whole of 2018 based on the projection described above).

Graph 5: Match Specific Alerts by Level of Tennis in the period 2009 to 2018 (based on projection to the end of 2018)

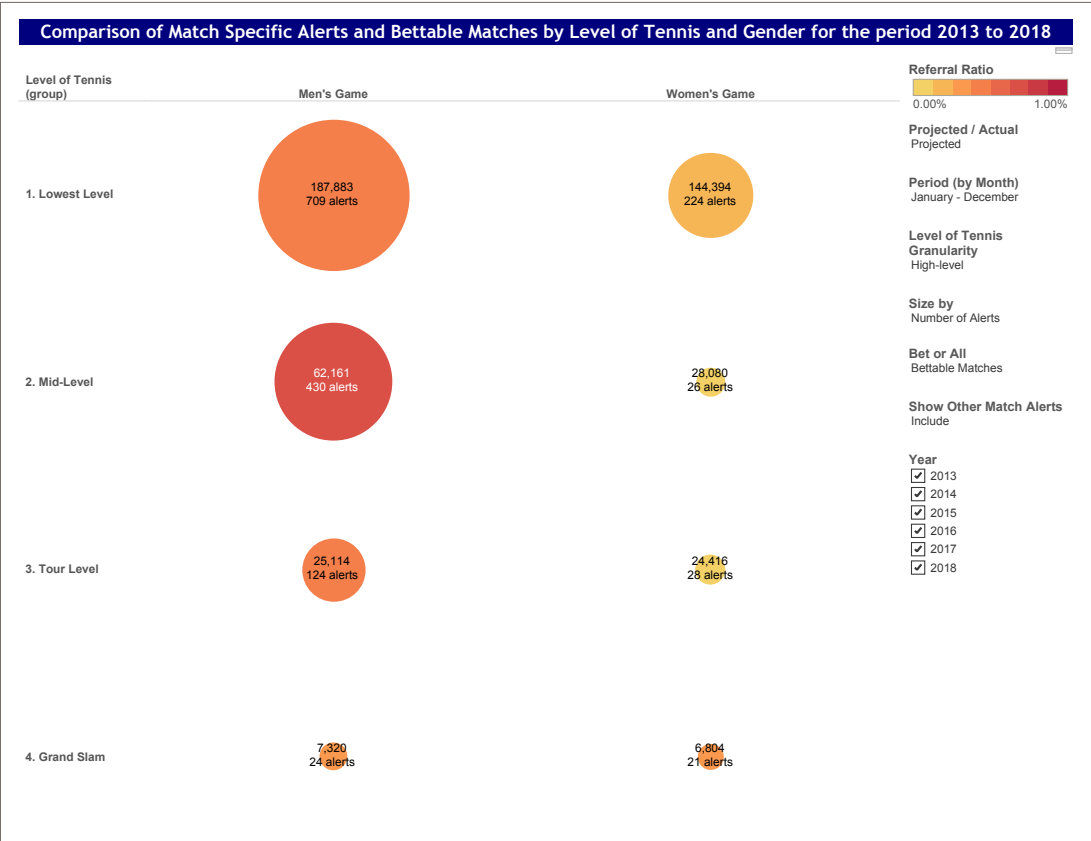


119. These data therefore suggest that at the Lowest Level of the sport the decline seen in 2017 may have been an outlier. At that level the 2017 decline has reversed, and 2018 has seen an increase over 2016 as well as 2017. In contrast at the ATP Challenger and women's Mid-Level, however, the decline seen in 2017 has continued, and the 2018 figure is down on both 2016 and 2017 and comparable to the position in 2015. Similarly, at the Tour level, the decline has continued, and is below the level at each of 2015, 2016, and 2017. At the Grand Slam level there was a marginal increase of one Match Specific Alert³⁴ on 2017.

³⁴ This was attributable to the number of Other Match Alerts at the Grand Slam level in 2018. There were 15 Match Specific Alerts at Grand Slam level in 2017 as against 16 in 2018. The equivalent figures in Betting Match Alerts were 7 and 3 and in Other Match Alerts 8 and 13.

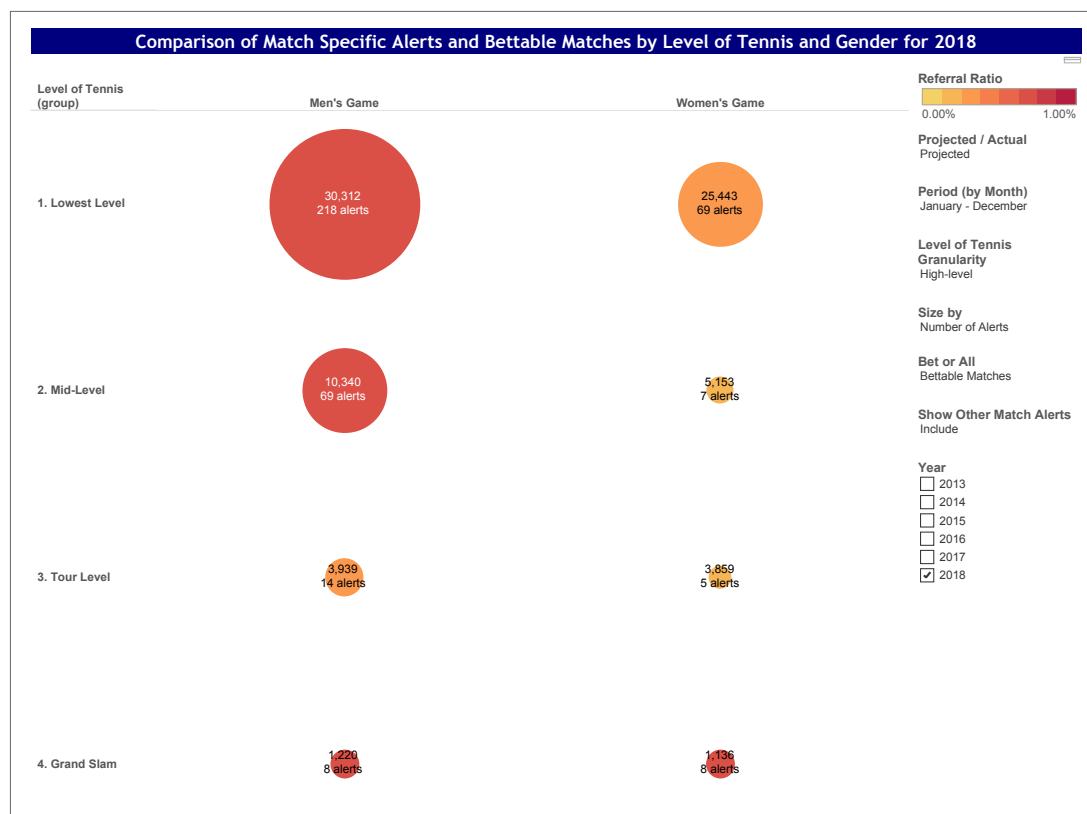
120. The data for 2018 (as projected) also continue to suggest that, in terms of volume of potential integrity issues based on Match Specific Alerts, the Lowest and Mid-Levels of the sport generate the clear majority of concerns:
- 120.1 91.2% of all Match Specific Alerts (363 out of 398) are projected to be generated by matches at the Lowest and Mid-Levels of the sport, while only around 4.0% of Match Specific Alerts were generated by Grand Slam Level matches and 4.8% by Tour Level matches.
- 120.2 Dividing these figures between the Lowest Level and the Mid-Level, 72.1% (287 out of 398) of all Match Specific Alerts are projected to be generated by the ITF \$15k and \$25k matches (men and women), up from 54.2% in 2017 (192 out of 354); and 19.1% (76 out of 398) of all Match Specific Alerts are projected to be generated by Mid-Level matches (men and women), down from 31.1% in 2017 (110 out of 354).
121. Analysed by gender:
- 121.1 54.8% (218 out of 398) of all Match Specific Alerts are projected to be generated by ITF men's ITF \$15k and \$25k matches, up from 42.4% in 2017 (150 out of 354) and 17.3% (69 out of 398) of all Match Specific Alerts are projected to be generated by ATP Challenger matches down from 29.4% in 2017 (104 out of 354).
- 121.2 17.3% (69 out of 398) of all Match Specific Alerts are projected to be generated by the women's ITF \$15k and \$25k matches, up from 11.9% in 2017 (42 out of 354) and 1.8% (7 out of 398) of all Match Specific Alerts are projected to be generated by WTA \$125k and ITF \$60-100k matches up from 1.7% in 2017 (6 out of 354).
122. These changes are reflected in the Referral Ratios for 2018. In the period January to November 2018, the Referral Ratio for ITF men's ITF \$15k and \$25k events increased to 0.65% from 0.47% in 2017, but the Referral Ratio at ATP Challenger events decreased to 0.67% in January to November 2018 from 1.01% in 2017. Further, it is projected that the Referral Ratios to the end of 2018 will be 0.72% for ITF men's \$15k and \$25k matches taken together and 0.67% for ATP Challenger matches. The ITF men's \$15k and \$25k events are therefore projected to exceed ATP Challengers in terms of both the number of Match Specific Alerts and Referral Ratio.
123. Graph 6 below illustrates the same comparative incidence of Match Specific Alerts at the different levels as Graph 3, but over 2013 to 2018 (including a projection to the end of the year), rather than over the period 2013 to 2017. It reveals a comparative growth as against 2013-2017 at the Lowest Level in the size of the circles representing the number of Match Specific Alerts, and a comparative darkening as against 2013-2017 at the Lowest Level of the colour of the circles illustrating the Referral Ratios (or incidence per Bettable Match) of such alerts based on the number of matches available for betting at each level and type of competition.

Graph 6: Comparison of Match Specific Alerts and Bettable Matches, by Level of Tennis and Gender, 2013 to 2018 (based on projection to the end of 2018)



124. Graph 7 below illustrates the same comparative incidence of Match Specific Alerts at the different levels as Graph 3 and Graph 6, but over 2018 alone (including a projection to the end of the year). It reveals a significant growth at the Lowest Level compared to the Mid-Level in the size of the circles representing the number of Match Specific Alerts, and a significant darkening at the Lowest Level compared to the Mid-Level of the colour of the circles illustrating the Referral Ratios.

Graph 7: Comparison of Match Specific Alerts and Bettable Matches, by Level of Tennis and Gender in 2018 (based on projection to the end of 2018)



125. The data also show that a further 188 players (in addition to the 851 up to the end of 2017) were subject to at least one Match Specific Alert in the period January to November 2018, increasing the total number of players subject to a Match Specific Alert in the period 2013 to 2018 (to the end of November) to 1,039. Of those 1,039 players, 182 (17.5%) were the subject of three or more Match Specific Alerts in that same period, 42 (4.0%) players were the subject of six to ten Match Specific Alerts, and nine players were the subject of over ten Match Specific Alerts. The player who most frequently arose in the data was the subject of 17 Match Specific Alerts in that almost six-year period.

(3) Comparison of ITF \$15k and ITF \$25k events

126. The Panel has with the assistance of FTI Consulting compared the data in respect of ITF \$15k and ITF \$25k events over the period 2013 to 2018 (with a projection to the end of 2018). The comparison is based on the figures until the end of November 2018, which have been projected to arrive at a view of whole year figures for 2018 on the same basis as described above³⁵.
127. Table 3 and Graph 8 below set out the data for 2013 to 2018, (with a projection to the end of 2018), in respect of each of the different levels of professional tennis. In contrast to Table 2 and Graph 5 above, Table 3 and Graph 8 below also separate the data in respect of the Lowest Level between ITF \$15k and ITF \$25k events, so that a comparison can be made between each of these levels over the period 2013 to 2018 (with a projection to the end of 2018).

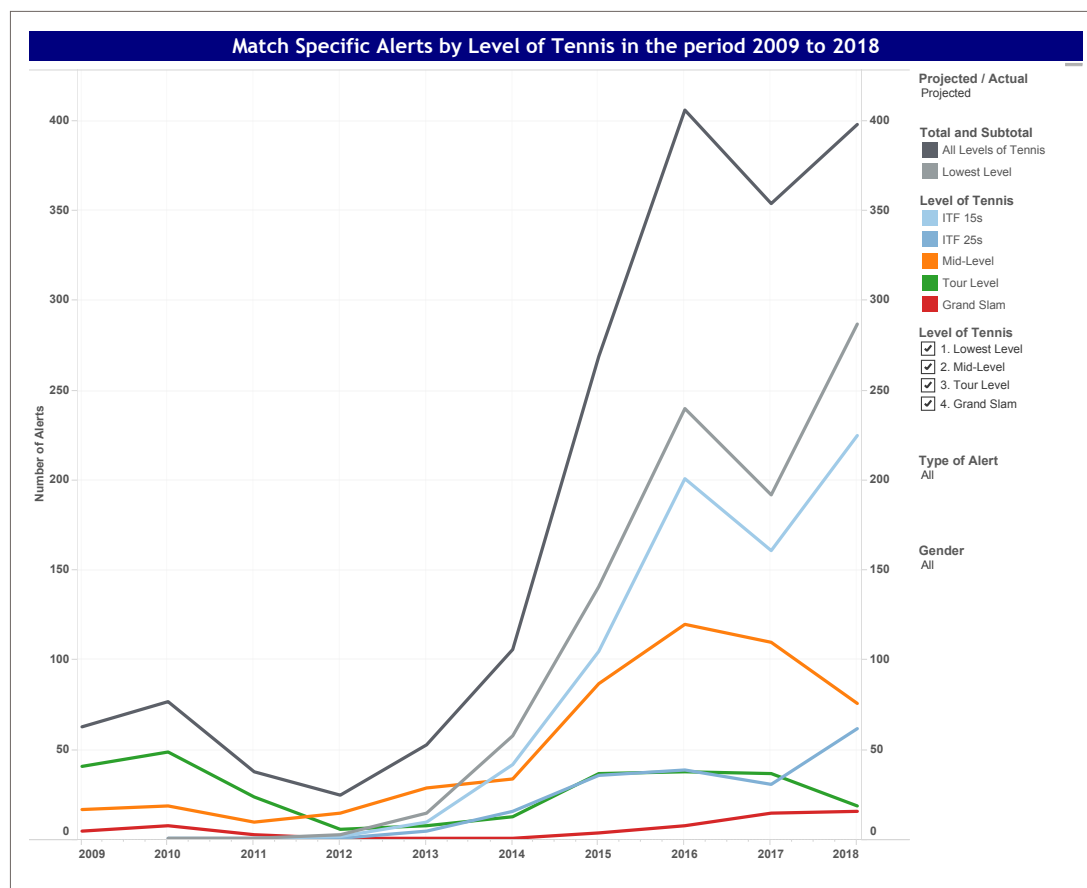
³⁵ Paragraph 116. The same projection has been applied to arrive at a view of whole year figures for ITF \$15k and ITF \$25k levels individually.

Table 3: Match Specific Alerts, Betting Match Alerts and Other Match Alerts, by Level of Tennis, and separating ITF \$25k and \$15k events, in the period 2013 to 2017, to the end of November 2018, and with a projection to the end 2018

Level of sport	Attribute	2013	2014	2015	2016	2017	2018 (to Nov)	2018 (proj.)	2013-2018 (proj.)
Grand Slam	Match Specific Alerts	1	1	4	8	15	16	16	45
	<i>Betting Match Alerts</i>	1	-	2	5	7	3	3	18
	<i>Other Match Alerts</i>	-	1	2	3	8	13	13	27
Tour Level	Match Specific Alerts	8	13	37	38	37	19	19	152
	<i>Betting Match Alerts</i>	6	5	28	3	10	6	6	58
	<i>Other Match Alerts</i>	2	8	9	35	27	13	13	94
Mid-Level	Match Specific Alerts	29	34	87	120	110	76	76	456
	<i>Betting Match Alerts</i>	26	21	64	77	78	44	44	310
	<i>Other Match Alerts</i>	3	13	23	43	32	32	32	146
Lowest Level	Match Specific Alerts	15	58	141	240	192	253	287	933
	<i>Betting Match Alerts</i>	9	38	126	206	161	191	212	752
	<i>Other Match Alerts</i>	6	20	15	34	31	62	75	181
ITF \$25k	Match Specific Alerts	5	16	36	39	31	62	62	189
	<i>Betting Match Alerts</i>	3	13	30	30	25	42	42	143
	<i>Other Match Alerts</i>	2	3	6	9	6	20	20	46
ITF \$15k	Match Specific Alerts	10	42	105	201	161	191	225	744
	<i>Betting Match Alerts</i>	6	25	96	176	136	149	170	609
	<i>Other Match Alerts</i>	4	17	9	25	25	42	55	135
All Levels	Match Specific Alerts	53	106	269	406	354	364	398	1,586
	<i>Betting Match Alerts</i>	42	64	220	291	256	244	265	1,138
	<i>Other Match Alerts</i>	11	42	49	115	98	120	133	448

128. The figure of 62 Match Specific Alerts for ITF \$25k events for 2018 (on the basis of the projection) is higher than in 2017 in part because of a significant rise in Other Match Alerts at this level to 20 in 2018, in comparison to the position in previous years (from 2013 to 2017 the figures were 2, 3, 6, 9, and 6).

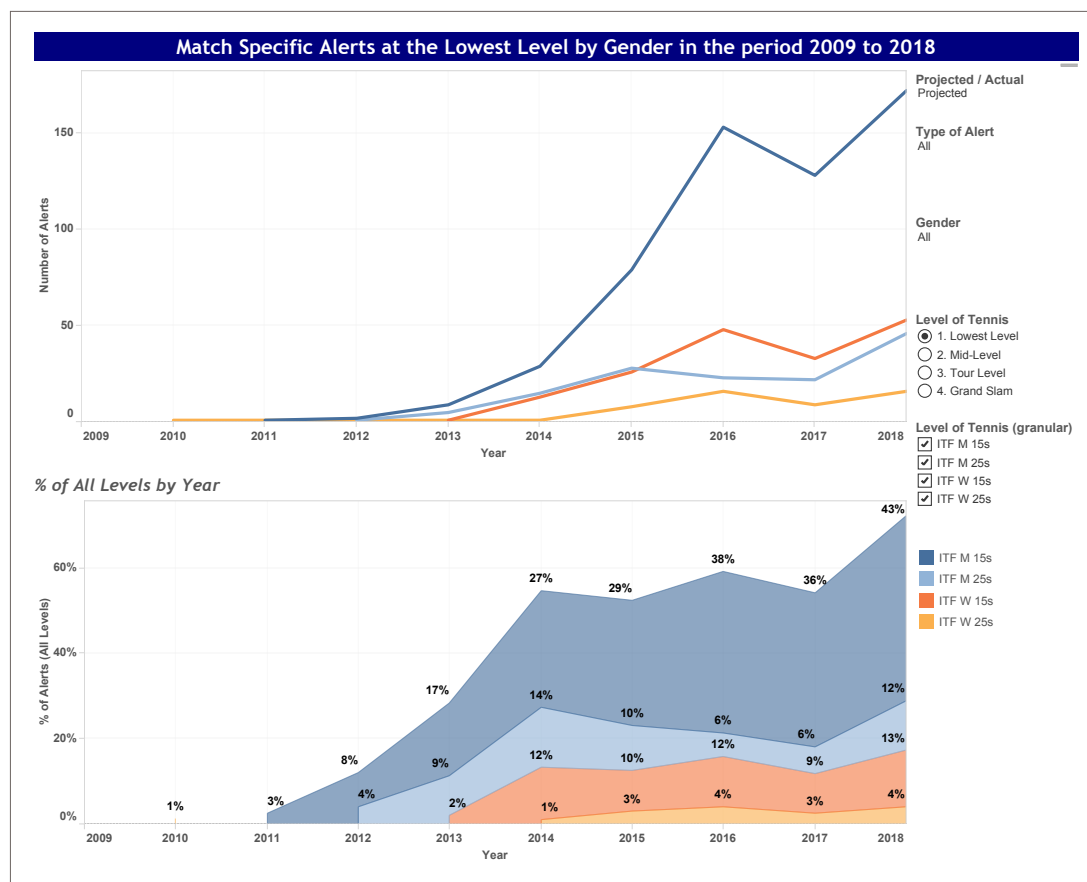
Graph 8: Match Specific Alerts by Level of Tennis, and separating ITF \$25k and \$15k events, in the period 2009 to 2018 (based on projection to the end of 2018)



129. Graph 9 below breaks down the data in respect of ITF Lowest Level matches between 2009 and 2018 (with a projection³⁶ to the end of 2018) into the figures for each of men's \$25k events, women's \$25k events, men's \$15k events and women's \$15k events. The first part of the graph sets out the number of Match Specific Alerts in respect of each category in each year. The second part of the graph sets out what percentages each category represents of the total number of Match Specific Alerts across the sport each year. For example, in 2018 the Lowest Level accounted for 72.1% of all Match Specific Alerts across the sport, which was made up of men's ITF \$15k events (43% of the total across the sport), women's ITF \$15k events (13%), men's \$25k events (12%), and women's \$25k events (4%). In 2017, the men's \$25k events contributed 6%, and the women's \$25k events 3%, of the total across the sport.

³⁶ Paragraph 116. The same projection has been applied to arrive at a view of the whole year figures for ITF men's \$25k, women's \$25k, men's \$15k and women's \$15k levels individually.

Graph 9: Match Specific Alerts at the Lowest Level of Tennis, separated into men's and women's ITF \$15k and ITF \$25k events, in the period 2009 to 2018 (based on projection to the end of 2018)



130. As shown by Table 3 and Graphs 8 and 9:

130.1 Over the period 2013 to 2018 (with a projection to the end of 2018), of the 1,586 Match Specific Alerts across the sport as a whole, 744 (46.9%) were attributable to ITF \$15k events (both men and women), and 189 (12.0%) were attributable to ITF \$25k events (both men and women). The ITF \$15k events (both men and women) were therefore broadly responsible for between three and four times as many Match Specific Alerts as the ITF \$25k events (both men and women).

130.2 ITF \$15k events (both men and women) alone contributed the highest number of Match Specific Alerts in each year since 2014 (and the second highest in 2013) of all levels of the sport. In the last three years (including 2018 as projected) ITF \$15k events (both men and women) have been responsible for 49.5% (2016), 45.5% (2017) and 56.5% (2018) of the total Match Specific Alerts across the whole sport in each year respectively. In the same period ITF \$25k events (both men and women) have therefore been responsible for 9.6% (2016), 8.8% (2017) and 15.6% (2018) of the total Match Specific Alerts across the whole sport in each year respectively³⁷.

³⁷ A significant part of the rise in the figures for the ITF \$25k events in 2018 was attributable to the rise in the level of Other Match Alerts from 6 in 2017 to a forecast 20 in 2018.

- 130.3 Over the last three years (including 2018 as projected) ITF \$15k events (both men and women) have been responsible for 83.8% (2016), 83.9% (2017) and 78.4% (2018) of the total Match Specific Alerts at the Lowest Level. Across the same period ITF \$25k events (both men and women) have therefore been responsible for 16.3% (2016), 16.1% (2017) and 21.6% (2018) of the total Match Specific Alerts at the Lowest Level.
- 130.4 In comparison over the period 2013 to 2018 (as projected), the Mid-Level contributed 456 (28.8%) of the 1,586 Match Specific Alerts across the sport as a whole. The Mid-Level contributed the second highest number of Match Specific Alerts in each year since 2014 (and the highest in 2013). In the past three years (including 2018 as projected) Mid-Level events have been responsible for 29.6% (2016), 31.1% (2017) and 19.1% (2018) of the total Match Specific Alerts across the whole sport in each year respectively.
131. Graphs 10 and 11 below measure the number of Match Specific Alerts for ITF \$15k and ITF \$25k events, against the number of Bettable Matches to produce the Referral Ratios for those events, first over 2013 to 2018 (as projected), and second for 2018 (as projected) alone. For comparative purposes, they also include the data in respect of the ATP Challengers and WTA Mid-Level and ITF Mid-Level events.
- 131.1 For the period 2013 to 2018 (as projected), the Referral Ratios were 0.32% (1 in every 313 matches) for ITF \$15k events and 0.19% (1 in every 524 matches) for ITF \$25k events.
- 131.2 In 2018 (as projected) alone, the Referral Ratios are 0.62% (1 in every 161 Bettable Matches) for ITF \$15k events and 0.32% (1 in every 316 Bettable Matches) for ITF \$25k events.
132. Further broken down by gender for the period 2013 to 2018 (as projected), the Referral Ratios were:
- 132.1 0.41% (1 in every 242 Bettable Matches) for ITF men's \$15k events and 0.28% (1 in every 361 Bettable matches) for ITF men's \$25k events.
- 132.2 0.18% (1 in every 549 Bettable Matches) for ITF women's \$15k events and 0.10% (1 in every 978 Bettable matches) for ITF women's \$25k events.
133. In 2018 (as projected) alone, the Referral Ratios for 2018 broken down by gender are:
- 133.1 0.81% (1 in every 123 Bettable Matches) for ITF men's \$15k events and 0.50% (1 in every 199 Bettable Matches) for ITF men's \$25k events.
- 133.2 0.35% (1 in every 284 Bettable Matches) for ITF women's \$15k events and 0.15% (1 in every 651 Bettable Matches) for ITF women's \$25k events.

Graph 10: Comparison of Match Specific Alerts and Bettable Matches by Level of Tennis and Gender in the period 2013 to 2018 (based on projection to the end of 2018)



Graph 11: Comparison of Match Specific Alerts and Bettable Matches, by Level of Tennis and Gender in 2018 alone (based on projection to the end of 2018)



134. The available data therefore suggest that the extent of the problem in terms of Match Specific Alerts has been, and remains, greater at the ITF \$15k level than the ITF \$25k level. Further, the extent of the problem in terms of Match Specific Alerts in the men's game at the ITF \$15k level appears to be increasing in severity and in 2018 (as projected) is comparable in terms of Referral Ratios to that at the ATP Challengers:

134.1 For the period 2013 to 2018 (as projected), the Referral Ratios were 0.41% (1 in every 242 Betttable Matches) for men's ITF \$15k events and 0.69% (1 in every 145 Betttable Matches) for ATP Challengers.

134.2 In 2018 (as projected) alone, the Referral Ratios were 0.81% (1 in every 123 Betttable Matches) for ITF \$15k events and 0.67% (1 in every 150 Betttable Matches) for ATP Challengers.

E INTERVIEWS UNDERTAKEN BY THE PANEL

135. As noted above, the Panel's Review also included interviews with approximately 115 male and female tennis players from all over the world, playing at tournaments at all levels of the game, from ITF \$15k and \$25k events to top-flight ATP and WTA events. To facilitate candid responses, the interviews were conducted on assurances of anonymity. During the interviews, one or more representatives of the Panel covered with the players a broad range of integrity-related topics, including, among other things, the player pathway, tournament prize money and player costs, the ranking system, tournament scheduling, betting, deliberate underperformance, match-fixing, player integrity education, reporting of integrity issues, player harassment on social media, and the TIU's performance.

136. While necessarily anecdotal, the player interviews provided the Panel with a rich source of qualitative information about integrity issues in tennis, which is largely consistent with the other available evidence. Many of the players had first-hand knowledge of inappropriate activity. They reported a variety of experiences with attempted or successful match-fixing, efforts by bettors to obtain inside information, and deliberate underperformance. In addition, several players reported that they had been personally approached to manipulate a match for betting purposes, usually at lower level tournaments lacking in basic security and controls on player access. Players generally opined that this type of activity was most common at the lower levels of nominally professional tennis – and often attributed its prevalence to temptations arising from low prize money and high costs – but some players reported their belief that match-fixing may also be taking place at higher levels of the sport.

137. The evidence provided in the Panel's player interviews was largely corroborated by the Panel's interviews with other key tennis stakeholders. Witnesses from the International Governing Bodies noted the perception that match-fixing is more common at the lower levels of tennis and that the low prize money at those levels together with the difficulty players face in progressing to higher, more lucrative, levels of the sport contribute to an environment that may encourage such misconduct. For example, the Director of the Grand Slam Board told the Panel that, in his view, players at the lower levels *"have little prospect of moving up the professional ranks"* and *"over time those players are likely to become disillusioned with tennis and may then be tempted by opportunities to generate income through wagering and/or corruption involving third parties"*. Similarly, Tennis Australia's former President expressed his view that *"players at this lower level are more susceptible to corruption as the prize money available is low, the security is basic and anyone can approach and influence the players"*. The ITF's Senior Executive Director for Development and Integrity told the Panel that, although he has not seen empirical evidence to suggest that ITF matches are more likely to generate suspicious activity alerts, *"the number of tennis matches played compared to other sports"* and *"the attractiveness of tennis at the lower professional levels to corruptors"*, together with the fact that the prize money available at ITF \$15k and \$25k events is *"too low for many players to earn a living under the current structure, which allows for an unlimited number of professional players"*, may create circumstances in which *"players at the Pro Circuit level who lack moral stature may be tempted to contrive the outcome of a match for financial gain"*.
138. Witnesses from betting operators have similarly advised the Panel that match-fixing is a serious problem at the lower levels of tennis. One betting operator expressed its view that *"the situation in tennis is grimmer than grim"*; while it has *"never really seen any remarkable problems"* at ATP and WTA matches, it identified a *"match-fixing 'season'"* from October until the end of the year, when it finds *"traces of up to two to three fixed matches a day in various ITF tournaments that take place in Europe and elsewhere"*. A representative from another betting operator reported that tennis *"is considered riskier than other sports"*, in part because *"at the lower levels of tennis, players are vulnerable to match-fixing"* and *"individuals have a high degree of influence over the outcome of a match"*.
139. Finally, TIU investigators – the professionals charged with enforcing the tennis anti-corruption rules – have repeatedly confirmed, in their evidence to the Panel and publicly, not just the structural drivers of integrity breaches at the lower levels of tennis, but also the seriousness of the integrity problem now facing the sport. An experienced TIU investigator estimated that *"hundreds of matches at Futures level (both singles and doubles) are not being played fairly, with the numbers reducing as you move upwards through the ranks of the professional game"*. Another reported that at some lower levels of the sport, tennis faces a *"tsunami"* of low-level betting and other integrity breaches.

F SURVEY DATA

140. As also noted above, the Panel commissioned a survey to solicit the views of players on match-fixing and other betting-related and integrity issues. The online, confidential, and anonymous survey was made available on the ITF, ATP, and WTA websites; emailed to over 20,000 players; and manually distributed at two high-level tournaments.
141. Over 3,200 tennis players – including almost 2,000 male players and over 1,200 female players from all levels of the sport – responded to the survey. In line with the structure of professional tennis, over 80% of the respondents primarily competed at the Lowest Level (made up of ITF men's and women's \$15k and \$25k events) in 2016, but approximately 5% of the respondents reported that they were ranked in the top 150 and played primarily in the highest-level ATP and WTA events. Although Europe was the only continent where a majority of respondents had competed in 2016, significant numbers also played in Asia, Africa, North America, South America, and Australia.

142. Because players were not required to participate in the survey, the potential for non-response bias requires caution in attempting to draw statistical inferences from the survey respondents to the entire population of professional tennis players. In other words, there is some possibility that the players who elected to respond to the survey may not represent the overall population of players, and the anonymity of the survey prevents estimation of the magnitude of this potential bias.³⁸
143. Nonetheless, particularly in combination with the other available sources of information, the large and diverse sample of survey respondents provides further insight into the scope and seriousness of betting-related integrity issues in professional tennis today:
- 143.1 16.4% of all respondents indicated that they had first-hand knowledge, defined as information from their *“personal observation or experience”*, of a player betting on tennis. Of this group, 37.8% indicated that they had knowledge of more than one instance of such activity.
- 143.2 11.4% of all respondents indicated that they had first-hand knowledge of a player providing inside information, defined as *“supplying private information about a player’s likely performance in a match to assist anyone in betting on professional tennis”*. Of this group, 28.4% indicated that they had knowledge of more than one instance of such activity.
- 143.3 14.5% of all respondents indicated that they had first-hand knowledge of match-fixing, defined as *“any conduct in professional tennis that alters the outcome of a point, game, set, or match for financial reasons related to betting or in exchange for anything of value”*. Of this group, 35% indicated that they had knowledge of more than one instance of such activity.
144. The majority of the survey respondents reported that they had obtained their knowledge of such activities from the lower levels of the sport, although, as noted above, most of the survey respondents primarily competed at these levels in 2016. In addition, many reported first-hand knowledge of breaches of integrity at other levels as well³⁹:
- 144.1 Of the 17.4% of male respondents who reported first-hand knowledge of betting, 82.6% reported knowledge of such conduct occurring at ITF men’s \$15k and \$25k events level and 41.9% reported knowledge of such conduct occurring at the Challenger level, while 21.2% and 16.9% reported knowledge of such conduct occurring at an ATP event or a Grand Slam, respectively. The pattern was similar for the 14.7% of female respondents who reported first-hand knowledge of betting: 68.7% reported knowledge of such conduct occurring at the lowest-level tournaments (ITF women’s \$15k and \$25k events) and 32.4% reported knowledge of such conduct occurring at Mid-Level tournaments (WTA \$125k or ITF \$60-100k events), while 26.4% and 20.3% reported knowledge of such conduct occurring at an ATP event or a Grand Slam, respectively.
- 144.2 Of the 11.8% of male respondents who reported first-hand knowledge of a player providing inside information, 73.9% reported knowledge of such conduct occurring at ITF men’s \$15k and \$25k events and 31.6% reported knowledge of such conduct occurring at the Challenger level, while 15.4% and 11.5% reported knowledge of such conduct occurring at an ATP event or a Grand Slam, respectively. The pattern was again similar for the 10.7% of female respondents who reported first-hand knowledge of a player providing inside information: 59.9% reported knowledge of such conduct occurring at the lowest-level tournaments and 20.5% reported knowledge of such conduct occurring at Mid-Level tournaments, while 15.2% and 12.9% reported knowledge of such conduct occurring at an ATP event or a Grand Slam, respectively.

³⁸ One plausible scenario is that players who fix matches or commit other integrity breaches are less likely to willingly respond to a survey about corruption, even anonymously. Conversely, players with no first-hand exposure to corruption may believe that corruption is not a serious problem in tennis and, therefore, might have viewed the survey as a waste of their time.

³⁹ Because players could identify more than one tour level in responding to the survey question about where they had obtained their firsthand knowledge of corrupt activity in professional tennis, some players indicated that they had knowledge of corrupt activity at several levels of the sport.

- 144.3 Of the 15.5% of male respondents who reported first-hand knowledge of match-fixing, 75.2% reported knowledge of such conduct occurring at ITF men's \$15k and \$25k events and 31.9% reported knowledge of such conduct occurring at the Challenger level, while 14.7% and 10.8% reported knowledge of such conduct occurring at an ATP event or a Grand Slam, respectively. The pattern was yet again similar for the 12.9% of female respondents who reported first-hand knowledge of match-fixing: 57.9% reported knowledge of such conduct occurring at the lowest-level tournaments and 19.5% reported knowledge of such conduct occurring at Mid-Level tournaments, while 15.7% and 11.3% reported knowledge of such conduct occurring at an ATP event or a Grand Slam, respectively.
145. The survey results further suggest that both male and female players are unlikely to report improper betting and other corrupt activities. Among the respondents with first-hand knowledge of corrupt activity, approximately 35.1% indicated that players *"never"* or *"rarely"* report such information to the TIU. By contrast, only 5.6% of such respondents indicated that players report such information *"most of the time"* or *"always"*.

G OTHER EVIDENCE

146. The TIU data, Panel interviews of players and others involved in the sport, and player survey responses collected and analysed during the Panel's Review are generally consistent with other available sources of evidence about the nature and extent of the integrity problem facing tennis, including the prior integrity reviews, past and current TIU enforcement actions, and ESSA figures concerning the high number of betting alerts in tennis relative to other sports.
147. Although the Ings Report and the Environmental Review largely focused on the threats to tennis rather than the scope of the integrity problem then facing the sport, both provided examples of how the threat had already materialised. The Ings Report, for instance, catalogued several credible examples of possible corruption, while the Environmental Review raised concerns about numerous matches with suspicious betting patterns. The Panel's findings are also consistent with the structural concerns raised by those reviews, including the Environmental Review's observation that players *"who are not earning substantial money"* in the lower levels of the sport might be particularly *"vulnerable"* to corrupt approaches.
148. As for enforcement actions, from 2009 through to the publication of the Interim Report, the TIU brought 35 successful disciplinary cases against professional players before an AHO⁴⁰. Almost all of these cases involved players ranked outside the top 500 and matches at ITF men's \$15k and \$25k events or Challenger events. Many resulted in a fine or short suspension for such offences as betting on tennis or refusing to cooperate with a TIU investigation, but 15 players received multi-year or lifetime bans for contriving, or attempting to contrive, a match or for failing to report solicitations to contrive a match. In 2017 alone, 11 players were sanctioned by an Anti-Corruption Hearing Officer ("AHO"), with five players receiving multi-year or lifetime bans for contriving, or attempting to contrive, a match or for participating in a solicitation to contrive a match. In addition, between the introduction of a procedural mechanism for provisional suspension under the TACP (2017) and the publication of the Interim Report, a total of eight Covered Persons (five players and three officials) were subject to provisional suspension⁴¹.

⁴⁰ In the same period one successful disciplinary case was also brought against a Covered Person who was not a player. There were two unsuccessful disciplinary cases against players – one that resulted in an acquittal by an AHO, and another that was successful before the AHO but then overturned on appeal by the Court of Arbitration for Sport (CAS).

⁴¹ TACP (2017), G.1.e.

149. Since publication of the Interim Report, the TIU has brought a further 23 successful disciplinary cases (against 19 players, three officials, and one coach), with 15 of those individuals receiving multi-year or lifetime bans. An acquittal by an AHO also occurred in that same period. In addition, one further player was subject to provisional suspension.
150. Finally, ESSA reports that the vast majority (over 75%) of the suspicious betting patterns reported by its members in sport come from tennis, even though tennis is the fourth largest sport for betting. While such reports must be treated with similar caution as the Match Specific Alerts provided to the TIU, the fact that ESSA receives three times as many suspicious betting alerts for tennis as it does for all other sports combined is another stark indicator that the scale of the problem in tennis is significant.

H DEGREE OF CONFIDENCE IN PROVISIONAL FINDINGS ON THE NATURE AND EXTENT OF THE PROBLEM

151. Based on all of the above evidence, treated with the requisite degree of caution in the light of its limitations, the Panel has a fair degree of confidence that a significant and growing integrity problem exists at the level of the current ITF \$15k and \$25k events, mostly (though not exclusively) involving men, and at the ATP Challenger level. The evidence also indicates that the problem is greater at the ITF \$15k level than at the ITF \$25k level. While no level of professional tennis appears to be immune from integrity-related concerns, the available evidence further suggests that integrity issues have not reached a significant level at Grand Slam events, ATP or WTA Tour events, WTA \$125k events, or ITF women's \$60k and \$100k events.

I DIFFICULTIES IN SAFEGUARDING INTEGRITY BY DETECTING AND PUNISHING BREACHES

152. The integrity challenge facing tennis is compounded by significant obstacles to detecting and successfully sanctioning improper conduct. First, the scope of professional tennis is immense and requires a global effort to detect misconduct. Approximately 115,000 professional tennis matches were played in 2017, of which approximately 85,000 were made available for betting. Professional tennis matches are played essentially year-round all over the world, and betting on tennis is largely an international phenomenon.
153. In addition, improper conduct, which can result from the efforts of a single person, is easily concealed. Detecting and proving match-fixing is difficult, and suspicious betting alone is generally insufficient to prove a breach – particularly where the required proof includes evidence that the player fixed a match for consideration, essentially requiring evidence of a corrupt link between the player and a bettor. Inside information may be surreptitiously acquired by a bettor, rather than provided by a player. Moreover, players who wish to bet on tennis can ask someone to do it for them.
154. Also, the TIU's investigative powers are limited. While a sports disciplinary body such as the TIU may enjoy certain contractual powers, it lacks the powers of a public authority. Accordingly, the TIU is largely dependent on voluntary reporting of suspected misconduct. And, when the TIU secures evidence of misconduct, the private disciplinary process is costly.

VII RESPONSE OF THE INTERNATIONAL GOVERNING BODIES AND TIU TO INTEGRITY ISSUES

155. Pursuant to the Terms of Reference, and the International Governing Bodies' request that the Panel address past events, this section addresses the appropriateness and effectiveness of the TACP, TIU, and TIPP and whether the investigation and the enforcement of the tennis integrity rules have *"been carried out appropriately"* before and after the creation, in 2009, of the TACP and the TIU. The Panel first reviews integrity-related investigations, enforcement, and education since 2009. Next, it addresses the International Governing Bodies' approach to integrity-related issues before the creation of the TACP and TIU. Finally, it considers the processing of historical materials during the International Governing Bodies' handover to the TIU of responsibility for integrity-related investigations. As set out in Section III above, it is not the Panel's role in this Review to determine whether past actions did or did not satisfy any legality standard, and it should not be taken as doing so. Rather, the Panel identifies below and in the REA (which should in this context be read together with this Final Report) the relevant evidence it has received, and sets out its opinion as to the effectiveness and appropriateness of relevant actions at the time, based on its appreciation of the available evidence of the contemporaneous facts and circumstances. The Panel bears in mind that points of view as to what may be the right decision or action to take vary, and the Panel notes that, in certain instances, it is not possible or appropriate to make credibility findings or to resolve direct conflicts in the evidence due to its inability to conduct adversarial processes.

A INTEGRITY-RELATED INVESTIGATIONS, ENFORCEMENT, AND EDUCATION SINCE 2009⁴²

156. At the end of 2008, the International Governing Bodies adopted a new uniform TACP; granted broad authority to the TIU to investigate breaches of integrity, to enforce the TACP, to prevent future misconduct, and to educate players on integrity issues; and hired Jeff Rees, an experienced sports integrity investigator, to lead the new TIU. The International Governing Bodies deserve credit for working together in this way; they appropriately recognised the limitations on their abilities to address the problem individually, and they acted ahead of many other sports in setting out to create a comprehensive system for safeguarding integrity in tennis. The establishment of the new rules, the TIU, and the TIPP was an appropriate response to the recommendations in the Environmental Review.
157. Since its inception in 2009, the TIU has successfully pursued 59 disciplinary cases for violations of the TACP, from match-fixing and betting on tennis to improper sponsorships with betting operators (of which 23 were decided after the publication of the Interim Report). The TIU also sought, and obtained in many instances, memoranda of understanding with betting operators, which require the signatories to notify the TIU about unusual betting patterns and, upon request, to provide the TIU with details about the bettors who generated those usual patterns. The TIU also created a global no-credentials list, in part to help tournaments identify would-be corruptors and deny them access to player-only areas at tournaments. And the TIU created, in 2011, an online educational program for players, commonly referred to as the TIPP. Since the TIPP became mandatory for professional players in 2014, over 25,000 players have completed it. The TIU deserves credit for these efforts.

⁴² REA, Chapter 10.

158. The Panel has not seen any evidence demonstrating that the approach of the TIU or the International Governing Bodies since 2009 has been designed to cover up breaches of integrity. However, their ability appropriately and effectively to address betting-related integrity issues since 2009 has in the view of the Panel been constrained in four principal ways, developed below:
- 158.1 while the involvement of the International Governing Bodies, through the Professional Tennis Integrity Officers ("PTIOs"), in the disciplinary process compromises the appearance of independence in that process, the International Governing Bodies' simultaneous efforts to afford the TIU operational independence has led to ineffective oversight and supervision;
- 158.2 the ITF's sale of official live scoring data to a large number of matches at which the risk of integrity breaches is greatest, without adequate assessment of, or controls over, the integrity-related consequences or appropriate safeguards, has significantly exacerbated the integrity problem facing tennis;
- 158.3 the TIU's insufficient staffing and lack of adequate protocols and procedures in some contexts have constrained its investigatory and enforcement efforts; and
- 158.4 with regard to certain TACP rules, the restrictive construction of the TIU and the wording of the TACP itself have made it unnecessarily difficult to punish serious breaches of integrity.

(1) Independence and oversight of the investigative and disciplinary process

159. When they created the TIU, the International Governing Bodies also created the TIB. While the International Governing Bodies never formally adopted the TIB's draft Charter, the TIB was given responsibility for, among other things, appointment, oversight, strategic direction, and financial management of the TIU, including appointing its Director, approving its annual budget, appointing AHOs, and suggesting changes to the TACP. Such oversight and strategic direction is, or should be, an important part of ensuring that the TIU is functioning properly.
160. The members of the TIB, however, are appointed by, and have dual roles as officers of, the International Governing Bodies. In the Panel's view, this had two simultaneous adverse effects. First, while the TIB has, correctly in the Panel's view, allowed the TIU significant autonomy to conduct its operations, the TIB members' dual official roles give rise to an appearance that the members might prioritise the International Governing Bodies' reputational and other interests over the TIU's mission to safeguard the integrity of tennis. This risks undermining public confidence that the TIU enjoys sufficient independence to effectively police tennis. Secondly, given the importance of allowing the TIU independence, the TIB has taken a largely passive approach to oversight and strategic direction. While the International Governing Bodies, through the TIB, have afforded the TIU the resources and assistance it has requested – and the International Governing Bodies deserve credit for doing so – the TIB's structure and practice have in the view of the Panel left the TIU without adequate supervision or strategic direction.
161. Similarly, while the International Governing Bodies afforded the TIU broad independent authority to initiate and conduct integrity investigations under the TACP, they also gave the sole authority to commence disciplinary proceedings to four PTIOs, who also hold dual roles as officers for the International Governing Bodies. In the view of the Panel, the PTIOs' dual roles create the risk of an apparent conflict of interest and further risk undermining the perception that the tennis disciplinary process is fully independent. At the same time, according to the terms of the TACP, the PTIOs have no prosecutorial discretion; the PTIOs "*shall*" refer matters for disciplinary proceedings any time an integrity offence "*may*" have been committed, regardless of any other countervailing factors. As a matter of practice, however, the PTIOs have at times relied on such countervailing factors in deciding not to commence proceedings even when the non-discretionary standard set out in the TACP appears to have been satisfied. While the Panel has seen no evidence that the PTIOs have unreasonably blocked proceedings for improper purposes, in the view of the Panel such exercise of prosecutorial discretion by the PTIOs was inappropriate under the TACP.

(2) The ITF's data sale agreements

162. The ITF entered into a live scoring data sale agreement with Sportradar in 2011 that became effective in 2012 and was later renewed in 2015⁴³. In contracting with Sportradar, the ITF followed similar data sale agreements previously entered into by the ATP and the WTA with a different data supply company, Enetpulse, which was soon thereafter acquired by IMG. The ITF has informed the Panel that it entered into its agreements not only to monetise its data rights, but also because the ITF had concerns that information gathered by scouts at ITF matches would be used to create betting markets. The ITF informed the Panel that it believed that selling its live scoring data would afford the ITF some control over the use of that data.
163. The ITF's data sale agreements have generated significant revenues for the ITF. For example, the December 2015 contract extension, which covers 2017 to the end of 2021, is worth approximately \$70 million. The ITF informed the Panel that these additional revenues have mainly contributed to prize money increases at ITF events, and development and integrity measures. The ITF also informed the Panel that the data sale agreements provide for other services beyond the financial consideration of the rights to live-scoring data, such as the provision of hand-held scoring devices.
164. In the Interim Report, the Panel expressed its view that before agreeing to sell its live scoring data to Sportradar, and again before its 2015 renewal of that contract, the ITF did not appropriately assess the potential adverse effects of those agreements on betting-related integrity in tennis and weigh those potential adverse effects against the benefits of the data sales, nor did it put in place appropriate controls to protect integrity. Before entering into its 2011 agreement with Sportradar, the ITF obtained a report from its external solicitors evaluating opportunities for the ITF to sell live scoring data. The report concluded that, because the sale of ITF data could be expected to reduce scouting at ITF events and to promote the ITF's increased engagement with the betting industry on integrity measures, *"there appears to be no overriding integrity reason to prohibit the ITF from supplying data to legal gambling operators"*. But the report did not discuss, and the Panel has seen no evidence that the ITF otherwise considered at the time (or before the renewal of the Sportradar contract in 2015), whether the sale of official live scoring data for many thousands of ITF matches would so increase the number of betting opportunities on such matches, where the risk of integrity breaches is great, that it would magnify the TIU's workload beyond its capacity. Furthermore, while the ITF suggests that there was *"significant betting"* at ITF events before 2011, and there certainly was some, there is no independent documentary evidence to suggest that it was significant in comparison to the enormous number of betting opportunities that were created by the ITF's ongoing sale of its live scoring data.
165. The available evidence reflects a very significant rise in betting alerts, and associated integrity concerns, after the ITF began supplying live scoring data for use by betting operators. While the ITF may have believed that scouts would be sent to more of its matches in the future, the Panel has seen little evidence that there was persistent demand in or before 2011 for betting on ITF events. By comparison, the Panel was told that the significantly fewer and higher-level ATP Challenger events had already experienced scouting, and there was good reason to expect that scouting at those events, and potentially their women's Mid-Level equivalents would increase in the future.

⁴³ The ITF's data sale agreements are described in more detail in Chapter 3, Section D of the REA, but that description was the subject of further submissions and evidence on consultation. Accordingly, the Panel's description and conclusions in this Final Report in relation to the ITF data sale agreements supersede the related content in the Interim Report and REA.

166. In the Interim Report⁴⁴, the Panel noted that the ITF's position was that it could not have known that its sale of official live scoring data for tens of thousands of matches involving thousands of players would significantly increase the TIU's workload. The Panel stated its view that the ITF should have anticipated this impact or at least should have undertaken further assessment of the potential ramifications from its data sales agreements, including asking for the TIU's input, which it did not appear to have done. The head of the TIU at the time, Jeff Rees, informed the Panel that *"I do not recall anyone from the ITF speaking to me, certainly not formally, about the sale of their data"*, and there was no documentary record of any such TIU input.
167. During the consultation process, the ITF expressed its *"strong disagreement"* with the conclusion that it did not ask for the TIU's input before it entered into its initial contract with Sportradar:
- 167.1 The ITF provided the Panel for the first time with a *"departmental report"* submitted to an ITF Directors' meeting in March 2012, which included the statement that *"throughout the bid process and subsequent negotiations with [Sportradar], ITF has been in regular consultation with the Tennis Integrity Unit to ensure full compliance with its policies and guidelines. It is hoped that collection and distribution of Official ITF Data will introduce a substantial level of control in favour of the ITF, thereby reducing the collection of 'unofficial' data (often used by the gambling industry and betting syndicates) resulting in a reduction of risk to players"*.
- 167.2 Statements were provided to the Panel by two witnesses. Francesco Ricci Bitti, the ITF President at the time, stated that *"[m]y understanding and recollection is that the ITF did consult with the TIU as part of its consideration whether to enter an agreement to sell live-scoring data. I am aware of several discussions about this matter. The advice received by the ITF from the TIU was similar to that given by them to ATP and WTA, i.e., that the TIU wasn't keen on the sale of live scoring data but it was by far preferable to control and certify the data, and to sell the data, only to recognised betting operators"*. Jan Menneken, the ITF's Executive Director Commercial at the time, told the Panel: *"I scheduled a meeting with Mr Rees on two separate occasions and also discussed matters with Mr Ricci Bitti, Jackie Nesbitt and Juan Margets. The feedback I received from Mr Rees was similar to that which he had provided to the ATP when discussing its proposal to sell official live scoring data. Mr Rees was aware of betting on ITF events and was reluctant to encourage such behaviour. However, Mr Rees was receptive to the idea that the collection and distribution of live scoring data should be supervised and controlled to the extent possible"*. Mr Menneken also stated that *"I can only assume that our proximity to each other and the fact that our meetings would have taken place during the usual course of our day (e.g. did not require travel to an external location) may have contributed to Mr Rees' inability to recall such meetings"*.
168. It seems to the Panel in these circumstances that there was contact in 2011 in relation to the proposed data sale between the ITF and the TIU. The content of that contact was not however recorded or documented, and the discussion appears to have been limited to the broad proposition that it was preferable to have control over official data than to lack control over unofficial data. The Panel remains of the view that insufficient diligence was conducted to assess the ramifications of increasing by tens of thousands the matches that could be bet upon at the Lowest Level of the sport, where the conditions create a great risk of integrity breaches. Certainly, by the time the ITF renewed its agreement with Sportradar in December 2015, there was already ample reason for concern about the impact of the ITF's data sales on tennis integrity, including the TIU's workload.

⁴⁴ REA, Chapter 3 Section D(6) and (7).

169. In the Panel's assessment, based on the evidence as a whole, the ITF's sale of official live scoring data greatly expanded the opportunities for breaches of integrity by creating many more betting markets involving many more players than would have otherwise existed, at a level where players are amongst the most tempted to breach integrity due to the challenges of the player incentive structure. This put a great strain on the TIU's ability to counteract breaches of integrity in tennis.

(3) TIU staffing, resources, and procedures

170. In the Panel's assessment, the TIU has been understaffed since its inception, and for many years it failed to put in place sufficient resources and practices to address its increasing workload effectively and appropriately. While the TIU has improved its investigative and enforcement practices over time – for example, by increasing its resources, adopting a more robust investigative database, more aggressively pursuing electronic devices from players suspected of corrupt activity, and increasingly seeking preliminary suspensions and sanctions for failure to cooperate – even at the time of the Interim Report, the TIU remained inadequately resourced and lacked adequate investigatory procedures. The Panel notes that since the commencement of this Review, the total staffing level of the TIU has been increased from six at the beginning of 2016 to 14 at the beginning of 2018 (not including administrative staff). On 6 April 2018, the TIU announced the planned recruitment of three further new members of staff, an Investigator, an Intelligence Analyst, and an Education Coordinator. As at the date of the Final Report, the total staffing level of the TIU is 15 (not including administrative staff), with some planned additional staff still to be recruited.
171. As noted in Section V.B above, pursuant to Mr Rees' recommendation, the International Governing Bodies at the outset in 2009 approved a smaller, five-person structure for the TIU with two investigators (Option 2 proposed by Mr Rees in the Environmental Review). Mr Rees had stated in the Environmental Review that professional tennis would be best served in the first instance by an Integrity Unit staffed in this manner and that such staffing would be proportionate to the threat faced by tennis at that time. But while the TIU hired an Information and Intelligence Manager to oversee the TIU's intelligence database before January 2009, it lacked any staff investigators for its first two years.
172. As more fully described in Chapter 10, Part 2, Section A(3) of the REA, Mr Rees told the Panel that the need to manage the unit responsibly, to organise the information it had received, and to develop systems for investigation warranted delay in hiring the TIU's first investigator. But even after Mr Rees noted, in July 2009, the need for an investigator – because the *"volume of work had increased steadily"* and the TIU was *"in possession of good intelligence, and had identified good targets, which could not be acted upon because of more-pressing demands"*, – the TIU did not hire its first full-time investigator until June 2010. At a subsequent TIB meeting in July 2010, Mr Rees identified the need for an additional investigator, but this second investigator was not hired until January 2011. In the Panel's view, Mr Rees should have taken steps to ensure that the TIU had at least the resources anticipated in the recommendation he made in the Environmental Review and should have pursued hiring investigators from the TIU's inception, particularly in light of the work that necessitated the creation of the TIU in the first instance.
173. At the date of publication of the Panel's Interim Report on 25 April 2018, following the four-fold increase in betting alerts in 2015 and the announcement of the Panel's Review, the TIU had increased the number of its full-time investigators from two to seven. The current Director of Integrity, Nigel Willerton, has suggested that ideally 12 investigators are needed. The TIU has a significant backlog of open cases in part due, in the Panel's view, to its inadequate staffing. For example, a March 2017 document shows that the TIU had identified 85 players that it planned, but had not yet been able, to interview; for comparison, the TIU conducted a total of approximately 80 interviews in all of 2016. The TIU has since informed the Panel that, as at 6 June 2018, the TIU had identified a total of 138 players that it planned, but had not yet been able, to interview. In the view of the Panel, the TIU has historically reacted behind the curve in increasing its resources, and it must not only add more staffing but also continue to assess and address its staffing needs on an ongoing basis to ensure that it stays on top of its important workload.

174. In the Panel's view, the TIU's investigative staff has also lacked and, despite recent improvements, still lacks, the diversity necessary to discharge its mandate. While the TIU has hired qualified and experienced investigators, all of those investigators, who work from the TIU's office in London, have similar backgrounds in British law enforcement. In the Panel's view, the homogeneity of the TIU's investigative staff hampers its ability to conduct truly international investigations. Without greater diversity, the TIU cannot practically conduct interviews in various parts of the world or effectively communicate with law enforcement agencies, betting regulators, national federations, or players from other countries and cultures. The Panel is concerned that this lack of diversity has contributed to perceptions of the TIU as a disconnected foreign entity that lacks an appreciation of the obligations of national federations. Moreover, the limited linguistic range of the TIU's staff, despite recent improvement, has meant that even when the TIU obtains personal records or devices as part of its investigations, the costs and time needed to translate the evidence can impede investigations.
175. Moreover, in the Panel's view, the TIU lacks staff with important specialised skills, including individuals capable of providing betting analysis, independent tennis expertise, and readily available legal advice. Most significantly, without a betting analyst to compile and analyse disparate betting alerts and data, including betting and bettor information, and to liaise with the betting operators, the TIU has not sufficiently used betting data to direct its investigations – such as by identifying linked accounts that regularly bet on suspicious matches or certain players or by identifying highly unusual betting activity that, when coupled with analysis of unusual match play, could prove match-fixing. Since the commencement of the Review, however, the TIU has begun to rely more on betting data. The TIU successfully used analysis of unusual betting activity to build its 2017 disciplinary case against Nikita Kryvonos. The AHO, presented with analysis of suspicious betting, determined that *“the betting pattern found in the alerts, when juxtaposed with both the betting operators’ information and with the playing activity on the court”*, supported a finding of a contrivance offence. And since the Kryvonos decision the TIU has made greater use of betting evidence in at least one other successful prosecution. In the Panel's view, the TIU should be making greater use of betting analysis, with expert advice from a betting analyst, to target investigations and build cases against players who are repeatedly flagged by suspicious betting alerts. Indeed, the TIU's failure to hire an analyst with the necessary skills to evaluate betting data has led at least one betting operator to express doubt about whether there is any benefit to providing betting alerts and data to the TIU.
176. Based on the Panel's review of the TIU's case files created since 2013, these resource limitations have in the Panel's view been exacerbated by the TIU's lack of formal investigative procedures and protocols. Since 2013, the TIU has lacked any formal written protocols governing the collection of evidence, including steps that the TIU's staff should take upon receipt of a match alert and a case management plan or guidelines for the time in which these steps should be accomplished. Nor has the TIU's decision-making during the information gathering stage regularly been supported by contemporaneous records; and, when contemporaneous records do exist, they sometimes provide inconsistent reasoning.
177. Further, this Review has identified a significant number of apparently open cases since 2013 that the TIU has not advanced over many months with some dormant cases that are over a year old remaining nominally *“live”*. There are also examples of considerable delays, of over two years, between the TIU's conclusion of its investigation and its submission to the PTIOs of a recommendation to initiate disciplinary proceedings.
178. Also, since 2013, without established practices – such as protocols governing how investigators should download, store, and analyse information on electronic devices and how investigators should address failures to cooperate – the TIU's handling of investigations has been inconsistent. For example, albeit there appears a degree of improvement in the last year, the TIU has not consistently investigated players' claims, following TIU requests for electronic devices, that the requested devices were lost, damaged, stolen, or replaced. Nor has the TIU consistently recommended disciplinary proceedings against players for their refusals to cooperate, even when the facts clearly supported such recommendations.

(4) Integrity rules

179. The adoption of the TACP represented an advancement in the International Governing Bodies' efforts to tackle betting-related breaches of integrity, and the International Governing Bodies have appropriately continued, since 2009, to amend the TACP in order to fill gaps or otherwise facilitate its enforcement.
180. At the same time, in the Panel's view, the TIU has adopted an unduly restrictive approach to the TACP's important prohibition against contriving the outcome of a match, as requiring proof of a corrupt link between bettor and player. The Panel does not view this difficult standard as required by the text of the TACP; in other words, contriving the outcome of a match is an integrity offence even without proof of a corrupt link to a bettor. Importantly, betting patterns can in some cases provide persuasive proof that bettors knew (as opposed to evaluated) in advance what the outcome of a match would be, demonstrating (at least) that bettors had learned of a prior decision to contrive the result of a match. In such circumstances, the TIU should have been able to pursue contrivance violations, even without proof of a corrupt link with the bettors. As more fully described in Chapter 10 Part 2 Section E(3) of the REA, Mr Rees suggested that while a different approach might be a recommendation for the future, there was no basis for criticising the past approach. Mr Rees said *"the interpretation we applied was the one the ATP had previously placed on the equivalent and predecessor provision in the ATP TACP"*, that no lawyers had advanced a wider interpretation to the TIU at the time, that *"the offence fell within a group collated under the title 'corruption offences'"*, and that there was separate provision for *"failing to give best effort"*. The Panel took these points into consideration, but concluded that the words of the provision itself, and the concept of "contrivance", do not require proof of a corrupt link.
181. Similarly, to prove the offence of supplying inside information, the text of the TACP requires money to have passed, or at least to have been sought or offered in return, despite the difficulty of proving such circumstances. In the view of the Panel, providing inside information for betting purposes, regardless of proof of consideration, compromises the integrity of tennis and should have been prohibited by the TACP.
182. In both of these instances, the approach of the TIU or the wording of the TACP has, in the view of the Panel, made it unnecessarily difficult to punish breaches of integrity.

B THE INTERNATIONAL GOVERNING BODIES' INVESTIGATION AND ENFORCEMENT EFFORTS BEFORE THE CREATION OF THE TACP AND THE TIU⁴⁵

183. Before 2009, the International Governing Bodies oversaw their own independent mechanisms for investigating and enforcing integrity offences. While their respective arrangements and capabilities varied, the Panel has not seen any evidence demonstrating that the approach of any of the International Governing Bodies was designed to cover up breaches of integrity. Nonetheless, in some instances, the International Governing Bodies' investigations and decision-making were, in the Panel's opinion, inappropriate and ineffective.

(1) The ATP

184. The ATP was at the forefront among the International Governing Bodies in addressing betting-related breaches of integrity before 2009, perhaps because it also appears to have faced the most significant integrity-related issues at that time. The available contemporaneous documents and betting alert data suggest that the scope of the problem from 2003 to 2008 was greater for the ATP than for the Grand Slams, WTA, and ITF; for example, while ATP matches generated 107 alerts during this time, there were ten betting alerts for WTA matches, zero alerts for ITF matches, and 27 alerts for Grand Slam matches.

185. Beginning in 2003, the ATP conducted a review of its integrity rules, and in 2004, adopted the ATP Tennis Anti-Corruption Programme (the "ATP TACP"), which, among other things, extended the ATP's integrity rules to cover coaches, family members, and other individuals in the players' inner circles; expanded the conduct that fell within the definition of a "*corruption offence*"; increased the penalties for corruption offences, including allowing a potential lifetime ban for match-fixing; expanded the ATP's investigative powers and participants' cooperation requirements; and established a disciplinary procedure overseen by an AHO with a right to appeal any discipline to the Court of Arbitration for Sport ("CAS"). The ATP also entered into MoUs with Betfair, the leading betting exchange, to secure reporting of suspicious and unusual betting patterns, and with ESSA to collect similar information. Further, before 2009, the ATP developed an integrity education program that it administered through its ATP University. In addition, the ATP effectively pursued some disciplinary prosecutions of betting-related offences before 2009.

186. Richard Ings, the person at the ATP responsible for integrity at the time, produced a report in 2005 (the "Ings Report") explaining in some detail the nature of the problem as he perceived it and making a number of possible recommendations. The Panel considers that the ATP should have given greater attention to the Ings Report. The important matters set out warranted meaningful consideration, including because the Ings Report clearly identified the warning signs as to the scale of the task then faced by tennis.

187. The Panel further considers that, before the creation of the TIU, the ATP on occasion failed to exhaust potential leads before ending its investigations.

188. For example, in 2007 and 2008, after obtaining intelligence from ESSA about betting accounts potentially held by players, the ATP gathered information that led to disciplinary sanctions against eight players for betting on tennis. The ATP deserves credit for its proactive efforts to pursue discipline against these players. Nonetheless, at the same time, the ATP obtained similar information about betting accounts potentially held by other players – two betting accounts with addresses that matched two players' addresses and a betting account with an account holder's name that matched another

⁴⁵ REA, Chapter 7 and Chapter 8.

player – that it should have pursued further. But the ATP’s approach was to cease investigating these accounts, even if the account had been used to bet on professional tennis, if the ATP concluded it could not prove that the account was held by the player based on the basic account information obtained from ESSA or if ESSA expressed doubt that the account was held by the player. In the Panel’s view, absent evidence that the accounts were not actually held by the suspected players, the ATP should have taken further steps to investigate its suspicions about these betting accounts. As further described in Chapter 7 Section B(5) of the REA, the ATP informed the Panel that it considered at the time that the ATP TACP precluded it from seeking further information from players absent a conclusion that an offence may have been committed, on the basis of the evidence that it already had. The Panel, however, concluded that there was nothing to stop the ATP from simply asking for information, rather than seeking to compel its provision.

189. The Panel is however satisfied that the ATP did not discriminate unfairly in its selection of which players to prosecute based on the betting-account, or in its approach to seeking further information. Further, the ATP did not fail to bring proceedings, based on the betting account information it obtained in 2007, against highly or relatively highly ranked players (in whose names there were betting accounts) in order to protect its revenue or reputation.
190. The ATP also obtained at the time a separate list of betting accounts held in the names of professional coaches. Unlike the ATP’s investigations into the betting accounts potentially held by players, however, the Panel has seen no evidence that the ATP, in 2007 or 2008, conducted any investigation into these betting accounts, beyond its request for preliminary information from ESSA. In the Panel’s view, while the ATP’s focus on players was understandable, the ATP still should have taken further steps to investigate whether these betting accounts had bet on professional tennis matches and whether the accounts actually belonged to coaches. The ATP told the Panel that material relating to the coaches was handed over to the TIU following its creation. Jeff Rees stated that he did not recall seeing it and suggested that it may not have been received. The Panel has not seen any evidence of the ATP providing this material to the TIU.
191. The Panel also has concern about a particular case that was identified and described in the Ings Report. In 2003, an ATP investigation discovered that a credit card held by Player B had been used to place bets on tennis matches and that credit cards held by persons associated with Player B had also been used to bet on one of Player B’s matches. An ATP memorandum from November 2003 concluded that the ATP had “*hard evidence*” of betting by the account held by Player B, and a contemporaneous draft decision letter stated that Player B had declined, on three separate occasions, to explain the betting activities or to deny his involvement in betting on tennis. The ATP did not sanction Player B. No contemporaneous document from 2003 explains the reasoning for that decision. During its Review, the Panel received evidence that, because an associate of Player B, who was not a player, took responsibility for the betting in the accounts backed by Player B, and there was no direct evidence that Player B had been aware of the bets when they were placed, the ATP determined that it had insufficient evidence to sanction Player B for the suspected misconduct. The Ings Report similarly stated, in 2005, that no disciplinary action had been taken against Player B because there was “*no corroborating evidence*” of player complicity in the betting. Mr Ings reported to the Panel that he took an informed view, after consultation with the ATP’s legal counsel, that insufficient evidence existed to find that Player B had breached the 2003 ATP rules.
192. Player B retired soon after the investigation. While Mr Ings reported that at no stage during his five-year career at the ATP did he observe or suspect that any player subject to a major offence investigation had been persuaded to end his or her career in exchange for the ATP ceasing an investigation, the Panel is concerned about the timing of Player B’s retirement.

193. At the time of the Interim Report:

193.1 The Panel was particularly concerned about the circumstances of Player B's retirement in light of a document in the TIU's files containing a written summary by Jeff Rees of a 20 October 2008 meeting, in which Mr Rees stated that before 2009 "*some suspect players had been persuaded to end their player careers*".

193.2 The Panel had received information concerning the circumstances of Player B's retirement but confidentiality had been asserted in relation to it and so the Panel was unable to use it to address the circumstances of that retirement.

194. At the time of the publication of the Interim Report, the ATP clarified that it was not asserting confidentiality over the information that it had provided to the Panel, although it did dispute the Panel's record of that information. It should be noted that a different source of information in relation to Player B's retirement continues to assert confidentiality.

195. The Panel's record of the information provided by the ATP is based on meetings it conducted with Mark Young (The ATP's Vice Chairman and Chief Legal and Media Officer). According to a contemporaneous attendance note of a meeting that took place on 9 June 2016, as well as the recollection of those who attended, Mr Young stated the following:

195.1 He had a very vague recollection of issues relating to Player B.

195.2 He believed the incident with Player B informally led to Player B's retirement.

195.3 His recollection was that Mark Miles (former ATP Chief Executive Officer) or someone else had a conversation with Player B. Mr Young said that tennis was a smaller community back then and that the nature of the conversation with Player B was almost like a "*family demand*". Mr Young said that according to his recollection, Player B retired as a result of this conversation.

196. Mr Young and the ATP disputed the accuracy of the record described above⁴⁶. They specifically stated that Mr Young did not use, and never has used, the phrase "*family demand*". Mr Young and the ATP confirmed that the Panel's record was accurate in stating that Mr Young "*had a very vague recollection*" of the issues regarding Player B.

197. Notwithstanding this dispute, the Panel considers that based on facts known it is reasonable to infer that the issue of retirement may have been discussed with Player B. In particular:

197.1 It is a fact that Player B retired at around this time. As described further in Chapter 7, Section A(2) of the REA, the ATP had sent Player B an investigation letter asking him to provide a detailed response to the evidence of his betting on tennis. Player B did not respond to that letter. Two days before the deadline to respond, Player B played his last professional match, effectively retiring. Player B did not make a formal retirement announcement.

197.2 The Panel notes that in the context of the statement of Jeff Rees that before 2009 "*some suspect players had been persuaded to end their player careers*", it has seen no evidence of any other player being persuaded to retire.

⁴⁶ Paragraphs 195.2 and 195.3.

198. Whilst the Panel understands why the ATP may have considered raising the possibility of retirement with Player B, it does not consider that this is an approach that should have been followed, if it was. Whilst the ATP may have viewed Player B's retirement as achieving an appropriate outcome for the sport (i.e. the player ceasing to play tennis), such an outcome should have been arrived at through the prescribed disciplinary process, which would have been transparent, and which might have uncovered misconduct by others.
199. In the event that the ATP did not consider there to be sufficient evidence to take disciplinary action against Player B, the options would have been to close the matter or to have continued the investigation. Based on the information it has seen, the Panel believes that it would have been open to, and on the face of it appropriate for, the ATP to have taken further investigatory steps, as discussed in Chapter 7, Section A(7) of the REA. It would have then been for the ATP to determine whether there was sufficient evidence to take disciplinary action against Player B.
200. Finally, in recognition that it lacked the necessary experience to conduct an investigation into the match-fixing allegations related to the 2007 Davydenko-Vassallo Arguello match in Sopot, Poland, the ATP appropriately engaged for that matter experienced investigators recommended by the British Horseracing Authority (the "BHA"). After a thorough investigation, the Sopot investigators concluded that while betting on the Sopot match had been placed at odds "*completely disproportionate to each player's actual chance of winning*" – suggesting that the bettors "*knew that Davydenko was going to lose*" – there was "*no evidence to connect*" either of the players or their support staff with the bettors. Relying on the Sopot investigators' conclusions, the ATP found that, because the ATP TACP's anti-contrivance rules did not prohibit contriving the results of a match for reasons unrelated to betting or corrupt purposes, there was no basis to bring a disciplinary charge related to the Sopot match under the ATP TACP. The Sopot investigators noted that their investigation had been hindered by limitations on their investigative authority under the ATP TACP – they had been unable satisfactorily to resolve their requests for Davydenko's complete telephone billings or to obtain a satisfactory explanation regarding other phones Davydenko was suspected of using – and they suggested that their investigation could have concluded differently had they been able to force more immediate compliance with their information requests. Given the evidence obtained at the time, the conclusions of the Sopot investigators, and the construction of the ATP TACP, it was not inappropriate for the ATP to conclude that no disciplinary charges should be brought related to the Sopot match.
201. There was however intelligence arising out of the Sopot investigation in relation to which no investigatory steps were carried out by the ATP. The reason for this is that the ATP decided to pass the intelligence to the TIU once created. This decision was appropriate. However, with Jeff Rees not appointed until September 2008 and the TIU not formed until January 2009, the ATP did not carry out any investigatory steps in relation to the intelligence for approximately one year. In the view of the Panel, this was a missed opportunity.

(2) The WTA, ITF and Grand Slam Committee

202. Regarding the other International Governing Bodies, before 2009, the WTA, ITF, and Grand Slam Committee (which later became the Grand Slam Board) also made efforts to address betting-related breaches of integrity, although none of them disciplined any player or coach. In 2007, the WTA revised its rules to model them after the ATP TACP. The WTA also entered into MoUs with betting operators. While the Grand Slam Committee and the ITF did not adopt rules allowing broader investigative powers like those provided by the ATP TACP, they increased the sanctions under their rules for major offences, including betting on tennis and match-fixing, before 2009. The Grand Slam Committee also entered into MoUs with betting operators.
203. The WTA informed the press in early 2008 that it was investigating "*five or six*" cases arising out of suspicious or unusual betting patterns. The Panel requested disclosure from the WTA of all documents relating to these investigations. In response, the WTA produced records to the Panel for two pre-2009 investigations into suspected betting or match-fixing. In the Panel's view, the WTA took appropriate investigative steps in these two cases, neither of which resulted in disciplinary sanctions. In the absence of documents, the Panel is unable to evaluate the WTA's handling of any other pre-2009 investigations. The Panel understands that there were no responsive documents to the Panel's requests in the WTA's records.

204. The records for the Grand Slam Committee show that it undertook over a dozen pre-2009 investigations into suspected betting and match-fixing. In each of these cases, the Grand Slam Committee concluded that there was no basis for a disciplinary sanction against the player, either because there was a plausible explanation for the player's poor performance, such as an injury or illness or the player was not playing on his or her preferred surface, or because the Committee lacked evidence that the player had contrived the results of the match and could not obtain additional information with its limited investigatory powers and capabilities. Nonetheless, the Grand Slam Committee's investigations, which were carried out by the ITF in connection with the Grand Slams, were at times unduly limited in scope and concluded swiftly. In the Panel's view, in some of these cases it would have been preferable for the Grand Slam Committee to have pursued further enquiries with the betting operators and to have carried out more detailed interviews.
205. The ITF has not produced any records of investigations into suspected betting or match-fixing by players during that time. Absent any indication that there were significant matters for the ITF to investigate, before the widespread sale of the ITF's data generated a large number of betting alerts and created significant concerns about integrity issues at ITF events, it seems reasonable that the ITF did not investigate such matters at the time.

C THE HANDOVER OF RESPONSIBILITY FROM THE INTERNATIONAL GOVERNING BODIES TO THE TIU⁴⁷

206. At the TIU's inception, the International Governing Bodies handed to the TIU materials in relation to possible offences from before 2009. It appears to the Panel that the International Governing Bodies proceeded on the basis that they had delegated to the TIU responsibility for deciding what to do with the materials relating to such possible offences, including whether to initiate any investigations based on these materials. It does not appear to the Panel that the TIU investigated any such possible offences from before 2009. Nor does it appear to the Panel that the TIU used information in relation to pre-2009 misconduct as intelligence to focus future investigations. While the Panel has seen no evidence that this approach was adopted due to an effort to cover up past breaches or to protect players under suspicion, in the Panel's view, the TIU's handling of pre-2009 materials was in a number of respects inappropriate and ineffective.
207. In particular, as noted above, the Environmental Review, co-authored by Jeff Rees, discussed "45 suspect matches" that "warrant[ed] further review" because of "specific concerns about each match from a betting perspective". Despite that conclusion, the TIU did not conduct any further review of these matches. The 45 matches had originally been identified by one of the Sopot investigators based on his analysis of Betfair data on accounts that had made significant profits from the Sopot match. While there is no explanation to be found in any contemporaneous record, Mr Rees told the Panel as more fully described in REA Chapter 9 Parts A and B(2), that he did not believe that the TIU ever received materials concerning the 45 matches. Mr Rees stated that he had repeatedly asked the Sopot investigators for the relevant materials, but that he never received them, ultimately lost patience, and stopped asking. The Panel's review of the materials that the TIU received from the Sopot investigators shows, in the Panel's view, that the TIU did in fact receive some materials related to the 45 matches. The Panel has seen no contemporaneous record of Mr Rees' frustration with not having received the material in relation to the 45 matches or of his reasons for discontinuing efforts to obtain that material from the BHA analysts or other sources. The Sopot investigators have denied that any material was withheld from the TIU.

⁴⁷ REA, Chapter 9 Section A(2).

208. Mr Rees told the Panel that he did not understand the materials provided by the Sopot investigators to relate to the 45 matches, but instead believed that these materials derived from the Vassallo Arguello material, addressed below, which he considered unusable. In particular, in January 2009, Mr Rees attended a presentation by Sopot investigators that he understood was to be in relation to the 45 matches, but according to Mr Rees he asked no questions because he believed the material presented to have derived from the Vassallo Arguello material. In the Panel's view, that mistaken belief was understandable, at least initially – as the presentation did indeed start with references to the Vassallo Arguello phone material – but the Panel still would have expected Mr Rees to have asked why he was not hearing about the 45 matches as he had expected. In any event, even if Mr Rees believed that the TIU had not received materials in relation to the 45 matches, and that such materials were being withheld from the TIU, that did not, in the Panel's view, justify the TIU's abandonment of efforts to acquire those materials, apparently without any written record of any attempts to obtain them. Particularly given that the Environmental Review had relied on the *"45 suspect matches"* when it concluded that *"the scale of the allegedly suspicious matches indicates there is no room for complacency"*, it appears to the Panel that the TIU missed a significant opportunity when it failed to pursue a *"further review"* of the *"specific concerns"* raised by these 45 matches.
209. By its inception, the TIU had received other materials from the International Governing Bodies related to possible offences from before 2009. Mr Rees told the Panel that he conducted a *"risk assessment"* of such materials to *"determine the unit's priorities for the short and mid-term, and ultimately the long term"*. Mr Rees told the Panel that, in his assessment at the time, the pre-TIU materials were not *"fresh"* and *"supporting evidence would have been difficult to secure"*, in part because misconduct that predated the TIU's creation would have been subject to a more *"time-consuming"* investigation under the International Governing Bodies' various pre-2009 rules, which gave the TIU less authority than the TACP to request information from Covered Persons. According to Mr Rees, he decided, based on this assessment, that the TIU's resources were best directed towards investigating future breaches based on incoming intelligence rather than investigating past breaches based on pre-TIU materials.
210. As a general proposition, the Panel recognises that setting investigative priorities – including based on whether existing information is stale, whether that information has been fully investigated previously, the likelihood that additional evidence can be secured, and the relative burdens imposed by the applicable rules – is appropriate. The Panel is concerned, however, that there is no contemporaneous record of Mr Rees' *"risk assessment"* to document the TIU's decision-making process, including, among other things, what information and materials were considered, how various factors were balanced, whether prioritisation of future matters was regarded as broad guidance or a firm rule, under what circumstances the TIU would have pursued investigations of past breaches, and precisely who was involved. Indeed, while Mr Rees and the International Governing Bodies have advised the Panel that the setting of investigative priorities rested solely with the TIU, statements to the Panel from certain PTIOs indicate that they were involved in the decision, before the TIU's inception, to prioritise the investigation of future misconduct over past events. Further, while Mr Rees told the Panel that *"many of the old cases in the files supplied had already been investigated by ATP or WTA or Grand Slam Board"*, the Panel has seen no evidence that the TIU separated the case files that had been investigated from those that had not. Indeed, the Panel's Review shows that the ATP passed responsibility for one active investigation to the TIU in September 2008, but the contemporaneous records show no further steps taken by the TIU on that matter.
211. In addition, in the Panel's view, the TIU did not appropriately process the materials that it received from the International Governing Bodies relating to possible offences from before 2009. The International Governing Bodies and Mr Rees both stated that they intended for all intelligence of historical allegations to be added to an intelligence database so that it could be used to focus, or at least to inform, future TIU investigations. It appears, however, that only a small portion of the pre-2009 intelligence was loaded onto the TIU's intelligence database. In the early years of the TIU, the TIU seems to have resorted to paper, rather than computer, records in relation to pre-TIU events. As more fully described in REA Chapter 9 Part D, Mr Rees told the Panel that he delegated responsibility for populating and operating the database to the TIU's Information Manager, Bruce Ewan, who has since died. This system did not in the view of the Panel appropriately or effectively facilitate the use of pre-2009 intelligence to focus and inform future investigations. Further, in light of Mr Rees' awareness of the contemplation of all parties that the materials should be used as intelligence, the Panel would have expected Mr Rees, as Director of the TIU, to have sought confirmation that this work was done.

212. In the assessment of the Panel, this was a missed opportunity that compromised the effectiveness of the TIU. A body of intelligence existed in respect of a reasonably large number of players who were suspected of having engaged in improper conduct. Based on evidence seen by the Panel, a number of those players were also involved in suspicious activities after the TIU was established in 2009. Even if there was insufficient admissible material to investigate and bring disciplinary proceedings against those players in relation to suspected past offences, at the least, the material should have been fully used as intelligence proactively to monitor and, where appropriate, conduct future investigations of those players and other potential corruptors in the sport.
213. Finally, the TIU did not make any use of the text messages and contact details that the Sopot investigators had downloaded from Vassallo Arguello's mobile telephone during their interview of him following his suspicious 2007 match against Davydenko. One of the Sopot investigators found that these materials corroborated suspicions regarding several of the 45 matches that the Environmental Review had independently identified as warranting further review. As more fully described in REA Chapter 9 Parts C(1) and (2), Mr Rees told the Panel that he determined that the TIU could and should not use any of the materials downloaded from Vassallo Arguello's phone because, according to Mr Rees, he had been told in 2007 that Vassallo Arguello had been "*conned*" into handing over his phone, and that technology experts, who were "*hiding*" in another room, had downloaded the phone's contents without Vassallo Arguello's knowledge. Mr Rees told the Panel that he concluded that the material had been obtained unethically, in violation of the ATP's rules, and unlawfully. Mr Rees stated that the material could and should not be used because their use would damage the TIU's credibility and expose the TIU and its employees to the risk of prosecution, and because the material would not be admissible as evidence in disciplinary proceedings.
214. Mr Rees, however, conducted no further inquiry into the factual circumstances surrounding the collection of the phone and its contents to ascertain and evaluate exactly how they were collected. Nor did he take any legal advice on the matter, including as to whether there had been a breach of the ATP rules or applicable laws or as to whether the material was admissible as evidence. The summary of the Vassallo Arguello interview and the evidence of the investigators who attended the interview indicate that Vassallo Arguello voluntarily handed over his phone. The individuals who Mr Rees says told him in 2007 how the phone and its contents had been collected strongly dispute his account. The investigators have firmly denied that they engaged in any unethical, improper, or illegal conduct when they collected the Vassallo Arguello phone evidence.
215. Given the conflicting evidence, and its role as described in Section III above, the Panel is unable to resolve these competing accounts and does not make credibility determinations. In the view of the Panel, however, neither the facts nor the applicable law were clear when Mr Rees made his decision. In the view of the Panel, Mr Rees did not pursue the factual and legal understanding required to reach a sufficiently informed decision that the TIU should not use this evidence for investigative or intelligence purposes, particularly in light of the potential significance of the downloaded material in pursuing the work that the TIU was established to perform.

VIII RECOMMENDATIONS

216. In the Interim Report, the Panel considered the current system as operated by the TIU and the International Governing Bodies inadequate to deal with the nature and extent of the problem now faced, as described above⁴⁸. The Panel did not consider that there is any single solution or simple panacea. Rather, the Panel concluded that a package of improvements is required across a number of areas. To that extent, the Panel set out seven inter-related preliminary recommendations under the heading of Recommendation 1.
217. In light of their experience with prior integrity reviews, the decentralised governance structure of the sport, and the concerning expansion of the integrity challenge that now confronts tennis, the International Governing Bodies committed publicly to implementing the Panel's final recommendations. This commitment creates a pivotal opportunity for tennis, and the Panel recognises the need for bold initiatives to restore, and safeguard for the future, the reality and appearance of integrity in tennis. At the same time, the Panel recognises that its recommendations must be practicable; that some consequences of some recommendations may be unwelcome to some stakeholders; and that some changes can only be developed and implemented through the expertise and experience, and with the co-operation, of those stakeholders. The Panel also recognises some practical and temporal difficulties that must be taken into account.
218. The consultation process that followed the publication of the Interim Report provided an opportunity for all to play their part in shaping the Panel's recommendations. The Panel now makes the following final recommendations, having considered all of the input on consultation regarding the preliminary recommendations in the Interim Report⁴⁹.

A REMOVING OPPORTUNITIES AND INCENTIVES FOR BREACHES OF INTEGRITY

219. The current tennis environment provides a lamentably fertile breeding ground for breaches of integrity. To tackle this problem, tennis needs a response that first takes on the opportunities for breach by limiting betting markets where feasible and appropriate, both through narrow measures that target specific integrity risks across the whole sport and through broader measures that prevent such markets at the Lowest Level of the sport, where tennis is particularly susceptible to breaches of integrity and where more targeted measures are impractical due to the large numbers of events and players. Secondly, the response must also address aspects of the organisation of the sport that incentivise, or fail to put a brake on, breaches of integrity. This also means that the International Governing Bodies will need, jointly and proportionally, to devote greater resources to the development of the sport, especially at the Lowest Level in order to ensure a safe passage between the developmental and professional levels of the sport. Because the entire tennis ecosystem depends on the effective development of future professionals, encouraging, funding, and protecting the integrity of developmental tennis is, in the Panel's view, the responsibility of all the International Governing Bodies.

⁴⁸ And as further described, up to its date, in the Interim Report and in the REA that accompanied it.

⁴⁹ Again, the Panel's preliminary recommendations in the Interim Report were based on the conclusions in the REA that accompanied the Interim Report, with which the Interim Report was to be read. Chapter 14 of the REA described those recommendations in more detail in order to facilitate consultation.

(1) Recommendation 1: Limitations should be imposed on the supply of official live scoring data

220. In the light of the evidence collected over the course of the Review, and having considered the substantial input in relation to this on consultation, the Panel has determined that the opportunities for breaches of integrity in tennis, and the incidence of online abuse of players, need to be addressed in two ways.
221. First, there needs to be a targeted system, under which the TIU can, on the basis of its experience and in cooperation with law enforcement, betting regulators, and betting operators, cause the official data supply to be removed in respect of certain high risk sets of circumstances throughout the sport, such as matches involving particular players, or matches at particular events, or particular types of match or event (subsection (c) below).
222. Second, in the evaluation of the Panel and balancing the competing considerations, such a targeted system, while necessary, is not sufficient to address the situation at the developmental level of the sport, which is particularly susceptible to breaches of integrity, and to online abuse, and where many thousands of matches and players are involved. Consequently, there should not be official data supply in respect of the new ITF WTT \$15k developmental tier (subsection (a) below).
223. These changes carry with them the need for corollary measures – first, allowing monitoring and disruption of betting based on unofficial live scoring data at WTT \$15k developmental tier matches and at any other matches in respect of which official data will not be supplied (subsection (b) below); and, second, imposing integrity related contractual obligations on betting operators and data supply companies as a condition of the supply of official live scoring data (subsection (d) below). In addition, there must be no live streaming or live internet coverage of WTT \$15k matches. The changes also carry implications for the funding of the future development of the sport (subsection (e) below) and for the acceptance of betting sponsorships (subsection (f) below).
224. Lastly, because it is difficult to predict with certainty the consequences of the recommended changes, there should be continuing assessment by the Supervisory Board (“SB”) and TIU, to enable them to evaluate on the basis of what actually happens in practice, whether any correction of course is required, in any direction (subsection (g) below).
225. In reaching its final interlocking recommendations in this context, the Panel has struck what it considers to be the appropriate balance among the various competing considerations, taking into account the extensive input on consultation. The Panel has also recognised and taken into account the practical and temporal difficulties that arise in this context, that different views can be and are taken by different stakeholders, and that is impossible to predict with certainty the consequences of the recommended changes.

(a) Discontinue the supply of official live scoring data in respect of the ITF World Tennis Tour \$15k developmental tier, subject to ongoing assessment by the Supervisory Board and TIU

226. Very considerable benefits for the protection of integrity can be achieved if there are no betting markets at the developmental level, where the sport is highly susceptible to breaches of integrity in the light of the imbalance between costs and earnings; comparative lack of player mobility; and relatively rudimentary facilities, accreditation systems, and basic security. The absence of betting markets at that level would reduce by many thousands the number of players whose matches can be bet on, and so who are vulnerable to temptation or corruption, as well as to online abuse. It would also greatly reduce the number of matches providing opportunities for such breaches, and potentially reduce the workload of the TIU as well.
227. Discontinuance of official data supply achieves these benefits if it prevents such betting markets. It does not do so, however, if the betting markets based on official data are simply replaced by parallel betting markets based on unofficial data derived from live broadcasts, obtained by scouts attending matches, or scraped from the internet. Indeed, in those circumstances, the protection of integrity would be harmed, because the sport would cease to have control over the data used to make the markets, and co-operation between betting operators and the TIU might be eroded.

228. In light of these considerations, the Panel concluded in the Interim Report that data at the ATP Challenger level should not be discontinued because, among other reasons, ATP Challenger matches are already largely live-streamed or broadcast, thereby permitting parallel betting markets to arise from the scraping of unofficial data. Moreover, the Panel noted that there is historical evidence – specifically, the scouting of ATP Challengers as early as 2005 – further suggesting that betting demand at that level would lead to the creation of unofficial markets based on live feeds or scouting. As a result, notwithstanding the significance of the integrity problem at that level, the Panel's view was, and is, that attempting to ban data sales at the ATP Challenger level poses a significant risk of backfiring. In reaching its decision that data sales should not be discontinued at the ATP Challenger level, the Panel has also considered that players competing at that level are closer to the top of the sport, where there are greater incentives to perform, and there are significantly fewer events for the TIU to police – as compared to the ITF \$15k and \$25k events.
229. Consultation submissions from the ITF, ESSA and Sportradar contend that discontinuance of data supply to both ITF \$25k and \$15k events, as provisionally proposed in the Interim Report, would not stop betting markets at those levels because additional demand for betting on tennis extends beyond the ATP Challenger level of the sport, and such demand would lead to the gathering of unofficial data, notwithstanding the recommended corollary measures of disruption and contractual obligations. It is contended that this would cause an erosion in co-operation between betting operators and the TIU because betting markets for ITF events would no longer be based on official data. The submissions of other key tennis stakeholders, including the other International Governing Bodies and the TIU, on the other hand, contend that the corollary measures would be sufficient to reduce significantly the number of lower-level matches available for betting and that the integrity benefits from reducing such betting opportunities warranted the discontinuance of data sales at those levels. The ITF, ESSA, Sportradar and Perform Group all broadly support a targeted system, under which the TIU can on the basis of its experience and in cooperation with betting operators, cause the official data supply to be removed in respect of certain high risk circumstances throughout the sport, largely similar to that proposed by the Panel (subsection (c) below). The ITF, ESSA and Sportradar contend, however, that such a course is sufficient to address the problem at the developmental level.
230. For the reasons set out below, the Panel has decided to make the final recommendation that the sport discontinue the supply of official live scoring data in respect of events in the ITF World Tennis Tour \$15k developmental base tier subject to ongoing assessment by the SB and TIU. This final recommendation takes into account developments since the Interim Report, the practical and temporal challenges, and the extensive input that the Panel received on consultation. Although the individual members of the Panel placed different weights on the various factors discussed below, they agree that this recommendation strikes an appropriate balance in the interests of the protection of tennis integrity.

The reorganisation of ITF level tennis with the advent of the World Tennis Tour

231. Since the Interim Report, the broad proposed changes to the ITF Player Pathway have solidified into the establishment of the ITF World Tennis Tour ("WTT"), which will be launched on 1 January 2019. The new structure involves two tiers. A new WTT professional top tier, made up of the former ITF \$25k events, will involve players (of each gender) currently ranked down to 750 in the world. And a new WTT developmental base tier, made up of the former ITF \$15k events, will involve the approximately 12,500 other players currently playing at the ITF \$15k and \$25k levels.
232. The new WTT \$25k professional top tier is intended to create a more effective pathway for players to advance. To promote this goal, events at this \$25k level will be distributed around the world and throughout the year. The overall objective is to increase the prize money and to concentrate it on the much smaller number of players at this level, who are aspiring professionals, to assist them in advancing. Events will be live streamed and will be subject to additional required standards for officials, accreditation, facilities, and security. The events will share many of the characteristics of ATP Challenger events. The same cannot be said of the new WTT \$15k developmental base tier, where the planned model for reducing costs may exacerbate the problems identified by the Review.

Comparison⁵⁰ of the 2013 to 2018 (as projected) data in respect of the former ITF \$15k and \$25k events shows that over the period there were 744 Match Specific Alerts at the \$15k level compared to 189 at the \$25k level, and Referral Ratios of 0.32% and 0.19% respectively.

The possibility of parallel markets based on unofficial data and erosion of cooperation

233. The Panel received extensive input on consultation contending that if the sale of official data were discontinued at the ITF level, parallel markets based on unofficial data would arise and cooperation between the betting industry and the TIU would erode, thereby undermining any benefits from discontinuing the data sales. Some consultees contended that betting operators that presently rely on official data to create their markets would be compelled to obtain unofficial data in order to satisfy demand for around the clock tennis betting opportunities and so as not to be competitively disadvantaged against other betting operators. Different views can be taken, and are taken by different consultees, as to the extent to which parallel markets based on unofficial data would arise notwithstanding the corollary measures that the Panel recommended in the Interim Report. The indisputable reality is that what would happen cannot be predicted with certainty.
234. The contention that parallel markets based on unofficial data would arise, and the extent to which and in respect of which events they would arise, necessarily depends on the extent of the demand for betting on tennis. On any basis, if there is sufficient official data supply to meet betting demand, there is no reason to expect the significant gathering of additional unofficial data at events for which official data are not supplied, if parallel markets are effectively disrupted through the corollary measures.
235. The Panel has concluded that if official data continued to be supplied to a proportion of the currently available ITF events, then it would reduce the risk that parallel markets based on unofficial data would arise in respect of the remainder – with the damaging effects that would have for the sport. Specifically, the Panel has reached the assessment in the light of its overall evaluation of all the consultation submissions, and the views of its betting expert, that it is unlikely that significant or widespread parallel betting markets based on unofficial data would emerge in relation to the WTT \$15k developmental tier, if data were to continue to be supplied to the new WTT \$25k professional tier and the recommended corollary measures applied. In the Panel's view, the demand for around the clock tennis betting opportunities would likely be satisfied by that level of supply, and there would be little financial incentive to scout additional matches on a widespread basis. Moreover, the new WTT structure introduced by the ITF should assist in satisfying this demand by further distributing WTT \$25k matches around the world.
236. If demand for around the clock tennis betting opportunities is satisfied, betting operators that use official data will be incentivised not to obtain unofficial data, but to assist in the disruption of possible parallel betting markets based on unofficial data, not only to preserve the integrity of the markets based on official data, but also to limit their competitors' ability to offer betting markets that they cannot offer, based on unofficial data. Further, maintaining the data supply to the WTT \$25k professional tier and thereby meeting demand should support broader continuing cooperation between the betting industry and the TIU, because betting operators would continue to operate on the basis of official data.

⁵⁰ As set out in section VI.D above.

Benefits of discontinuance of sale of data in respect of new WTT \$15k developmental base tier

237. Exactly where the dividing line between the body of ITF events to which official data should continue to be supplied, and those to which it should be discontinued, could be approached on a number of bases, including permitting data supply for some \$15k events or for particular matches at such events that could be seen not to raise a significant risk.
238. In light of the above, the Panel has decided that at this point the appropriate dividing line is between the ITF WTT \$25k professional tier and \$15k developmental tier because, among other things, (1) that is the division that the ITF itself has struck between the professional and the developmental tiers; (2) it protects the approximately 12,500 developmental players below the top 750 (of each gender), from temptation, corruption, and online abuse; (3) it reduces by many thousands the number of matches that present opportunities for breaches of integrity; (4) it potentially reduces the currently insuperable workload of the TIU; (5) it recognises that conditions at the WTT \$25k events will be improved (and will be similar to those at the ATP Challengers, where data sales continue) and are considerably better than conditions at the WTT \$15k level, which are designed to be lower cost events; (6) it recognises that the data indicate that historically and presently a greater proportion of Match Specific Alerts are generated by ITF events at the \$15k level than at the \$25k level; (7) it maintains the official data supply at events more likely to be otherwise subject to unofficial data gathering based on betting demand and takes that demand into account, thereby promoting cooperation between the TIU and betting operators; (8) it allows for the additional prize money and safeguards at the \$25k level to continue to be funded by the revenue from official data sales; (9) it allows for aspirant events, with better facilities, to seek to become \$25k events; and (10) it removes the need for difficult and tendentious assessment of which \$15k events should continue to be ones for which data are sold. If appropriate, however, in the light of the continuing assessment to be undertaken by the SB and TIU, adjustments can be made in the future.
239. In the view of the Panel, on balance, those benefits would not be achieved solely through the implementation of a targeted system – advocated by the ITF, ESSA and Sportradar, and largely similar to that proposed by the Panel (subsection (c) below) – under which the TIU could, based on its experience and in cooperation with betting operators, cause the official data supply to be removed in respect of certain high risk sets of circumstances throughout the sport. The Panel considers that that the targeted system that it recommends is necessary, but not sufficient, precisely because it cannot achieve the benefits described above, in particular of protecting many thousands of developmental players, significantly limiting the opportunities for breaches of integrity, and potentially bringing the TIU's workload within manageable limits.

Practical and temporal difficulties to be taken into account

240. As the consultation responses illustrate, there are a number of significant practical and temporal difficulties that the Panel also takes into account.
241. First, there is a contract in place between the ITF and Sportradar until 31 December 2021, three years from 1 January 2019. The Panel cannot and does not comment on the nature or extent of the obligations arising under that contract as those terms are confidential as between the parties.
242. In any event, it is to be hoped that agreement can be reached to confine the data supplied under the Sportradar contract to WTT \$25k professional tier events, and the Panel urges all parties to find a way to achieve this in the interests of the integrity of the sport.
243. To the extent that an agreement cannot be reached, the Panel's position is that the ITF should take such steps as it entitled to take under its contract with Sportradar to implement the recommendation to the maximum extent possible. It is a matter for the ITF to determine what steps are permissible under its contract.

244. Second, the Panel in the Interim Report made, and now continues to make, it a necessary quid pro quo of discontinuance (as set out in subsection (e) below) that funds be channelled from other parts of the sport to the ITF to contribute to these aims, which are beneficial for the sport as a whole. Any difficulties that the International Governing Bodies or some of them might face in doing this should be reduced if the supply of official data to the WTT \$25k professional tier is maintained at this point.
245. Third, to be effective, discontinuance must be supported by the implementation of the corollary measures recommended by the Panel: first, allowing monitoring and disruption of betting based on unofficial live scoring data at WTT \$15k developmental tier matches and any other matches for which official data are not permitted to be supplied (subsection (b) below); and, second, imposing integrity-related contractual obligations on betting operators and data supply companies as a condition of the supply of official live scoring data (subsection (d) below). In addition, there must be no live streaming or live internet coverage of WTT \$15k matches.
246. As at the time of this Final Report, most of those corollary measures – and the necessary contractual changes – have yet to be implemented. Again, the Panel urges the prompt adoption of these measures.

Ongoing assessment

247. Lastly, the Panel has recommended (subsection (g) below) that there be continuing assessment by the SB and TIU of what actually happens in practice. That will enable the SB and TIU to assess whether discontinuing the supply of official data at the WTT \$15k developmental tier does, contrary to expectation, lead to parallel markets; whether any correction of course is required; to what extent any future sale of ITF data should be allowed, after the Sportradar contract comes to an end; and whether the discontinuance of data sales should be extended to other levels of the sport, including at the WTT \$25k level or possibly even the ATP Challenger level.
248. The Panel hopes, and on the basis of what it has been told on consultation believes, that the betting industry will be prepared to put its backing behind a decision that developmental tennis, under the new ITF World Tennis Tour base tier comprising the former \$15k events, should not be made available for betting through unofficial data. The Panel also hopes, and on the basis of what it has been told on consultation believes, that the betting industry will maintain co-operation with the TIU to work together with it to ensure that the other measures recommended are effective.
- (b) Empower the TIU to monitor the betting markets and to disrupt betting based on unofficial live scoring data at ITF World Tennis Tour \$15k developmental tier matches and at any other matches for which official data will not be supplied**
249. To support the discontinuance of the supply of official data in respect of the WTT \$15k developmental tier and to increase its effectiveness, corollary measures should be put in place to counteract the potential emergence of parallel markets based on unofficial data. The same applies at any other level where data are not to be supplied (such as junior matches) or where, as recommended in subsection (c) below, the TIU has decided to impose restrictions on the supply of official live scoring data in particular circumstances at other levels of the sport.
250. Effective monitoring and disruption of betting markets at any matches for which official data will not be supplied is an essential element of these corollary measures. In the Panel's view, proactive and diligent efforts will be required by the TIU to monitor the online betting markets for the emergence of any such parallel markets, and to disrupt them should they arise. Any market so identified in respect of events in the ITF WTT \$15k developmental tier could only be based on unofficial data. The TIU should be empowered and fully staffed to conduct such monitoring, which would allow it to identify matches on which betting markets are being created based on unofficial data and to disrupt such markets by, for example, notifying the event supervisor or other appropriate official that a scout is suspected of being present at a match so that the scout's activities can be disrupted or the scout can be removed (if possible under local laws). Since there are very few spectators at such events, identifying the individual responsible should be possible. If the TIU finds it necessary, matches should be discontinued until the betting market has been effectively disrupted.

251. To avoid unofficial data being gathered other than through scouting, there should be no live streaming or live internet scoring of matches at the WTT \$15k developmental level. To the extent that streaming or scoring is desirable and necessary from a developmental point of view, it should be subject to a sizeable delay sufficient to deter in-play markets.
252. In addition, regardless of whether official data are sold, all events endorsed by the International Governing Bodies should have the on-the-ground capability to disrupt scouting when it is detected.
253. An important element in the success of the disruption of betting based on unofficial live scoring data will be the consistent and cooperative effort of all concerned actors, including betting regulators and law enforcement agencies (if possible under local laws), betting operators, and all of the International Governing Bodies. In practice, the TIU will have to lead and coordinate these cooperative efforts.
254. On consultation, it was submitted to the Panel that such monitoring and disruptive corollary measures would be insufficient to curb parallel betting markets based on unofficial data. The Panel considers that since the official data supply that is discontinued is limited at present to the official data to the ITF WTT \$15k developmental tier, those points lose much of their weight, because they are again premised on the level of demand for tennis betting not being satisfied by official data in respect of the WTT \$25k professional tier.

(c) Empower the TIU to impose targeted restrictions on the supply of official live scoring data in particular circumstances at all levels of the sport

255. In addition to the discontinuance of supply of official data in respect of the WTT \$15k developmental tier, the TIU should be empowered to, and should, employ targeted strategies for safeguarding the levels of the sport in respect of which the supply of official data continues. Through cooperation with data supply companies and betting operators as well as rules and binding contractual agreements, the TIU should be able to limit the supply of official data in particular circumstances, such as in respect of particular players, particular matches or events, or types of match or event.
256. The Panel welcomes the responses on consultation from the ITF, ESSA and Sportradar that were broadly supportive of the introduction of such a targeted system. Their consultation submissions contained detailed suggestions as to how cooperation could be achieved, and as to how such a system might function. The Panel considers that the precise mechanisms to be introduced are a matter for the new SB and TIU to decide, based on their experience and expertise and in discussion where necessary with the betting industry. The SB and TIU may well conclude that some aspects of what has been proposed in the consultation submissions would not be appropriate, or do not go far enough. As set out above, the Panel disagrees with the contention that a targeted system, alone, is sufficient to address the problem at the developmental level.

Minimum standards at events in respect of which official data are to be supplied

257. First, the TIU should be able to impose, and should consider whether to impose, minimum requirements in respect of events for which official data may be sold, including requirements concerning accreditation, facilities, officiating, and live streaming. For many events outside the Grand Slams and Tours, the accreditation systems, facilities, and security remain, despite some planned improvements, insufficient to protect players from would-be corruptors. As a minimum requirement, to prevent potential corruptors and others from approaching players or otherwise obtaining inside information, any events in respect of which official data are to be supplied should restrict access to player areas through an appropriate accreditation system and restrict access to the event grounds with appropriate perimeter control and security. In addition, there should be sufficient facilities and security on the ground at these events to restrict secure areas to appropriately accredited individuals.
258. Moreover, to deter misconduct and to preserve evidence when it occurs, any match for which official data are supplied should be: (1) live streamed; (2) video recorded with the electronic scoreboard in the camera frame, so that such videos can be made available to the TIU upon request; (3) presided over by an international standard chair umpire who has received integrity training; and (4) overseen by an event supervisor who has gold badge certification and can act as a delegate for the TIU during the event.

259. With the proposed discontinuance of official data supply in respect of the WTT \$15k developmental tier events, these requirements should already be satisfied, or readily capable of being satisfied, at the types of events in respect of which official data supply will continue. To the extent that any event fails to meet these requirements, the TIU should have the ability to require the discontinuance of the supply of official data in respect of the event. This should be achieved in the first place through cooperation between the TIU and data supply companies and betting operators. Absent such cooperation, the TIU should have the ability to direct the relevant International Governing Body to cease to supply that official data, with the International Governing Bodies having ensured that their official data sale agreements allow them to do this. This will ensure that the anticipated improvements at the ATP Challenger level and at the ITF \$25k professional tier level will be implemented across the board.

Supply of official data in respect of particular types of matches

260. Second, the Panel's Review suggests that certain types of matches are more susceptible to betting-related corruption than others. For example, regulators in France have already imposed restrictions on betting markets for certain types of matches including, for example, some qualifying matches and some first-round doubles matches. The TIU should have the ability to impose, and should consider on the basis of its experience and expertise and in all the circumstances whether it is necessary to impose, additional limitations on the types of matches for which official data may be supplied. Again, this should be achieved in the first place through cooperation between the TIU and the data supply companies and betting operators, but failing cooperation by a direction to the relevant International Governing Bodies.

Supply of official data in respect of matches involving a junior player

261. Third, in the Interim Report, the Panel recommended that the TIU should have the ability to impose, and should consider whether to impose, limitations on the supply of official data in respect of any professional matches involving a junior tennis player. Tennis players on the whole have regularly been subjected to unfair, and often vile, online harassment by bettors, and impressionable junior players are natural targets for corrupt approaches and unwarranted abuse. Official data are not sold in respect of the junior level of the sport in order to protect young players.
262. On consultation, it was pointed out that some junior players play at a very high level, for example at a Grand Slam or higher Tour level, and at that level not only have they accepted the disadvantages that come with the very significant benefits of participation, but also they have far more support than players at the developmental level of the sport. While they supported continuing not to supply official data for junior competitions, the International Governing Bodies suggested that it would not be appropriate to discontinue data supply at the higher levels based simply on the fact that one player was a junior.
263. In the Panel's view, this would be a matter for the TIU to evaluate in deciding whether to limit the sale of data for particular matches involving junior players. The Panel notes, however, that while it can see the force of the point made on consultation for matches at the higher levels of the sport, the Panel continues to see more of an issue for data sales on matches involving junior players at Mid-Level and ITF WTT \$25k events.

Supply of official data in respect of particular players, matches, or events

264. Fourth, the TIU should have the ability, in consultation with the relevant International Governing Body, data supply company, and (where applicable) betting regulator and/or law enforcement agency, to direct that official data not be supplied in respect of a particular player, match, event, or set of events if the TIU determines, based on its experience and expertise as well as the specific information available to it, that supplying official data presents a significant risk of facilitating a breach of integrity by or with respect to the player, match, or event. While not necessarily indicative of match-fixing, the data reflect that certain events and certain players are more likely than others, for whatever reason, to raise integrity concerns.

265. In addition, the TIU may have intelligence suggesting concerns about a particular match. Just as some betting operators elect not to offer markets for certain matches, on a prophylactic and precautionary basis, in their commercial interests, the sport's own integrity unit should have that power, and exercise it in the interests of safeguarding tennis integrity.
266. While the withdrawal of official data for betting purposes could raise some reputational concerns, the Panel considers that these are answered by the fact that the withdrawal of official data is a prophylactic measure taken on a precautionary basis and does not impugn any player, match, or event. Again, this should be achieved in the first place through cooperation between the TIU and data supply companies and betting operators, but failing cooperation by a direction to the relevant International Governing Bodies.
- (d) Impose contractual obligations on betting operators and data supply companies as a condition of the supply of official live scoring data**
267. It is open to the International Governing Bodies to impose contractual obligations on the data supply companies and, in turn, the betting operators, whose activities facilitate the integrity issues that the sport faces. Plainly the Panel cannot directly impose obligations on data supply companies or betting operators. The Panel can, however, do so indirectly.
268. The Panel can require the International Governing Bodies to include in their contracts for the sale of official data to each data supply company, first, obligations on the data supply company itself and, second, a requirement that the data supply company impose specified obligations that betting operators must fulfil and continue to fulfil, in each case as a precondition of the continued supply of official data. Because these conditions would be contractual, they could be readily enforced between an International Governing Body and a data supply company, and between a data supply company and a betting operator.
269. The Panel cannot and does not comment on the nature or extent of the obligations arising under the contracts between the International Governing Bodies and the relevant data supply companies as those terms are confidential as between the parties.
270. The Panel notes that the International Governing Bodies support the recommendation that the relevant contractual obligations should be put in place in relation to the sale of their data. It is thus hoped that all existing contracts will be amended accordingly. Further, all future contracts relating to the sale of data should include such contractual obligations.

Contractual obligation not to offer markets based on unofficial data

271. First, betting operators and data supply companies that wish to operate on the basis of official data should not at the same time offer or facilitate tennis betting markets based on unofficial data. Each International Governing Body should contractually require its data supply company to impose obligations that each betting operator purchasing official data: (1) will not make, or facilitate the making of, betting markets for tennis events or matches for which official data are not being sold; (2) will not make, or facilitate the making of, markets for tennis events that the TIU directs should not be made; (3) will not resell any official data on to anyone else; (4) will not profit from tennis betting markets based on unofficial data; (5) will promptly alert the TIU to any suspicious betting patterns; and (6) will identify and immediately report to the TIU matches on which betting markets are being created based on unofficial data.
272. On a breach of any of these conditions, the data supply company should have contractual power to require compliance, failing which it would cease to supply official data to the betting operator. Equally, the International Governing Body would be contractually entitled to require the data supply company to take this step against a betting operator in breach and, ultimately, to discontinue the supply of official data to the data supply company if it failed to comply. As for the data supply company itself, it should also be contractually required not to make, or facilitate the making of, markets for tennis events or matches for which official data are not being sold, again on pain of losing its contractual right to official data. Data supply companies acquiring official data should not also be scouting events for which official data are not sold due to integrity concerns.

Contractual obligation to have Memorandum of Understanding with the TIU

273. Second, the receipt of official data by any betting operator should carry with it the obligations to have entered into and to abide by a full Memorandum of Understanding with the TIU committing the betting operator to assist effectively in the protection of integrity. Each International Governing Body should contractually require its data supply company to impose obligations that each betting operator purchasing official data, as conditions to receiving such data: (1) have an MoU with the TIU including obligations (a) to alert the TIU to any suspicious betting patterns promptly; (b) to make available to the TIU any betting-related information that the TIU requests, not only for intelligence purposes but for use in disciplinary proceedings; (c) to report regularly to the TIU if the personal information maintained by the betting operator in connection with a betting account matches the identifying information provided to the betting operator by the TIU of any Covered Persons or “Tennis Interested Parties” (i.e., those who register with the TIU pursuant to the newly imposed registration program); and (d) to identify and immediately report to the TIU matches on which betting markets are being created based on unofficial data; (2) abide by and fulfil all the obligations in the MoU. The contractual conditions should permit the TIU to require that an International Governing Body direct its data supply company to discontinue the supply of official data to any betting operator that has failed to satisfy such obligations.
274. On consultation, it was again submitted to the Panel that such contractual corollary measures would be insufficient to curb parallel betting markets based on unofficial data arising. The Panel again considers that the limitation of the data sale discontinuance at present to the ITF WTT \$15k developmental tier causes these points to lose their weight, because they now must be premised on the proposition that demand for tennis betting would not be satisfied by official data for the WTT \$25k professional tier, a proposition to which the Panel does not subscribe.

(e) Contribute funds to the ITF to fund its developmental and integrity activities

275. The Panel recognises, as set out above, that discontinuance of data supply would likely remove some funding from the sport (and in particular the ITF), which the ITF has informed the Panel is used by the ITF and its members (1) for development of the grass roots through prize money (2) for integrity measures and (3) to improve the conditions at the lower end of the sport that contribute to making those playing there particularly vulnerable. The Panel considers that this concern is mitigated, as set out above, by the final recommendation being to discontinue the supply of official data in respect of the WTT \$15k developmental tier, but, at this point, to maintain it to the new \$25k WTT professional top tier events. At least some funds will be available to the ITF.
276. While the resolution of significant integrity concerns cannot be driven by the question of the financial return – even when much of it is redistributed to the sport – the ITF must be able to continue to serve its important functions, especially in promoting the development of tennis and future professional players and addressing integrity issues. For this reason the Panel recommended in the Interim Report and continues to recommend that it is a necessary quid pro quo of discontinuance that funds be channelled from other parts of the sport to the ITF to contribute to these aims, which are beneficial for the sport as a whole. The Panel remains of the view that the development of the grass roots and the protection of integrity (including the disruption of betting markets based on unofficial data) are in the interests of the sport as a whole.
277. As yet, the International Governing Bodies have not established a basis, or even a clear commitment, to provide the above-described funding. They have stated on consultation that this is a matter for the sport, in that it is a developmental and investment issue, rather than an issue that relates to integrity. The Panel considers that it remains a necessary constituent of the interlocking recommendations aimed at reducing the opportunities for breaches of integrity in tennis that the cost of that exercise be shared between all the International Governing Bodies.

(f) Eliminate betting sponsorships from tennis

278. In the Interim Report, the Panel noted that the TACP prevents players and other Covered Persons from receiving sponsorship money from betting operators, but that nothing currently restricts the International Governing Bodies or professional events (other than ITF events) from receiving such sponsorships. The Panel provisionally recommended in the Interim Report that the International Governing Bodies should lead by example. It was stated that if they consider it inappropriate for players and Covered Persons to receive sponsorship money from betting operators, the same standard should apply to the International Governing Bodies and the events they endorse. The Panel stated that it appreciated that the considerations underlying the sponsorship prohibition in the TACP – which appears to be designed to discourage players from contriving matches and passing along inside information – do not apply in quite the same way to the International Governing Bodies. Nevertheless, the Panel provisionally concluded that in the current climate, betting operators' sponsorship of the International Governing Bodies or professional tennis events sends the wrong message about the sport to its participants and spectators.
279. On consultation, some of the International Governing Bodies suggested to the Panel that betting sponsorships are an essential element of the basis on which some events are able to provide funding of prize money. As a result, they suggested that this recommendation might result in a reduction of prize money or even threaten the financial viability of certain events. However no evidence was submitted to support this suggestion. In their collective written submission the International Governing Bodies supported this recommendation. Concerns about revenues were not raised until late in the consultation process – and then, only orally.
280. The Panel considers that if the International Governing Bodies regard it as inappropriate for Covered Persons to receive sponsorship money from betting operators, the same standard should apply to the International Governing Bodies and the events that they endorse. The Panel remains of the view that the International Governing Bodies should lead by example.
281. The Panel also notes that the ITF has already adopted a rule that prohibits all ITF events from accepting sponsorship from betting companies⁵¹. The Panel considers that if ITF events – which are at the bottom of the tennis ladder and generate limited fan interest and revenue – can operate without betting sponsorships, then so too can ATP and WTA events.
282. As a result, the Panel maintains Recommendation 1(f) as set out in the Interim Report. However, as with the other interlocking recommendations, this recommendation should be subject to ongoing assessment by the SB and TIU. If the elimination of betting sponsorships proves to be harmful to the sport, then it can be reassessed in the future. The Panel considers that if betting sponsorships are allowed in the future, then the International Governing Bodies themselves should not take such sponsorships and they should make it an enforceable requirement that a specified and substantial, and not merely nominal, proportion of any value received from any sponsorship taken by an event they endorse must be spent on the protection of integrity, in a verifiable and approved manner.

⁵¹ The ITF Pro Circuit Regulations, 2018, Appendix G(3).

(g) Continuous assessment of betting markets, impact of discontinuance, effectiveness of measures aimed at protecting integrity, appropriate extent of future supply of ITF official data, and impact of elimination of betting sponsorships

283. As noted above, it is difficult to predict with certainty the consequences of the proposed changes, but the integrity challenges facing tennis require decisive action at this crossroads. In the Interim Report, the Panel recommended that the SB and TIU closely monitor and assess in writing, at least annually, the impact of the recommended discontinuance of the official data sales after it had taken place. In addition, the Panel recommended that the International Governing Bodies, in consultation with the TIU, should commission a continuing evaluation of the betting markets and the official data sales arrangements for tennis several years after the official data sales are discontinued. This was with a view that there could be a “*course correction*” as the International Governing Bodies put it, if the arguments made by the betting industry proved correct and the attempt to secure the benefits of discontinuance identified above, failed.
284. On consultation, it was submitted to the Panel that course correction would not be possible. The Panel considers that the historical experience is that when official data are issued they have been readily adopted in place of unofficial data, and that if course correction were required in the future, this would likely be the position again.
285. In these circumstances, the Panel makes the final recommendation that there be continuing assessment by the SB and TIU of all the interlocking recommendations. This would include assessing all relevant developments, changes in betting markets, the impact of discontinuance, the effectiveness of the measures aimed at protecting integrity, the appropriate extent of the supply of ITF official data in the future, and the impact of the elimination of betting sponsorships. Such continuing assessment will enable the SB and TIU to evaluate the Panel’s interlocking recommendations on the basis of what actually happens in practice, and whether any correction of course is required, in any direction. Pending such SB and TIU assessment, the ITF should not enter into any contract to resell data or to extend the term of the current arrangements.

(2) Recommendation 2: The organisation of professional tennis should be changed to better align player incentives

286. Several structural elements of professional tennis have long been recognised as potential factors in encouraging integrity breaches, as they can tend to diminish the incentives for players to perform at their most competitive during all the professional matches they play. While addressing incentive issues is important, the Panel recognises that structural changes to the way in which tennis is played can create unintended, and negative consequences for players and the sport as a whole. Accordingly, the Panel identified in its Interim Report several aspects of the organisation of professional tennis that it considered might be changed in order to improve player incentives, and sought consultation input in relation to them. In addition to providing the Panel with consultation submissions on these aspects, the sport has in some instances already made changes, or has scheduled changes to be made, to the structural elements of professional tennis. The Panel now makes its final recommendations in consideration of the present position.
- (a) The restructured player pathway should be assessed regularly by the ITF, ATP and WTA, to ensure that it provides sufficient financial incentives and prospects for progression**
287. The principal change to the structure of tennis that is necessary to promote integrity is to create a player pathway that ensures sufficient financial incentives and prospects for progression. On the basis of its Review, the Panel concluded that in 2018 professional tennis includes levels that are only nominally “professional”, encompasses too many players and events, fails to provide sufficient prize money relative to costs, and fails to provide sufficient opportunities for player progression.

288. There are in 2018 not nearly enough opportunities paying sufficient prize money to permit all nominally professional players to make a living playing tennis in the light of the great costs involved. While in 2018 there are approximately 14,000 nominally professional tennis players, the ITF has estimated that the economic break-even point is at the ranking of 336 for men and 253 for women, before accounting for coaching costs. To further illustrate, in 2018 even the winner of a nominally professional ITF \$15k or \$25k event may well lose money for the week of competition, after accounting for travel and lodging costs – but without considering other costs, such as for coaching, training, and medical care. Only a small fraction of nominally professional players today make a living playing tennis, and they largely compete, at least some of the time, on the Tours.
289. At the same time, while very talented young players will quickly progress from the Lowest Level to the Tours, it is difficult for many to advance in 2018. This is not only bad for the development of the sport, but it also fosters financial need and disenchantment, making breaches of integrity more likely.
290. The Panel concluded in the Interim Report that in the interests of tennis as a professional sport, the International Governing Bodies need to restructure the game to provide sufficient financial incentives for performance in the “*professional*” ranks while also providing ample developmental opportunities and the prospect of progression for aspiring players. If prize money cannot be increased considerably, as appears to be the case, then the number of tournaments deemed “*professional*” needs to be reduced significantly.
291. The Panel also concluded in the Interim Report that regardless of how “*professional*” tennis is reconfigured, the TIU needs to remain involved in overseeing integrity in the developmental ranks. Simply redefining professional tennis and leaving the developmental levels of the game without the TIU’s oversight would defeat the sport’s interest in ensuring the integrity of professional tennis into the future.
292. The principal proposed changes to the player pathway following the Interim Report have come from the ITF and the ATP. This is not surprising as they are together responsible for the entirety of the sport, both men’s and women’s, at the Lowest Level and at the Mid-Level, where the Panel has found that the sport’s integrity problem is greatest.

ITF World Tennis Tour

293. At the Lowest Level, the ITF in late 2018 finalised its reforms of the player pathway that had been under development when the Interim Report was published⁵². From 1 January 2019, the sport at the Lowest Level has been reorganised into the ITF “World Tennis Tour” (“WTT”).
294. The ITF recognised the difficulties with the prior structure of the sport, including to integrity, stating that “*reforms are being made as a result of extensive research and stakeholder input since 2014 that showed that despite more than 1,400 professional tournaments being offered on the ITF Pro Circuit in 2017, the Circuit provides a poor return on investment for nations and players; it does not present a clearly defined player pathway across the junior, entry level and higher professional stages; and it does present a risk to the sport’s integrity*”. The ITF reiterated that “*every year, 14,000 men and women play at least one \$15,000 tournament, but research indicates that only approximately 600 earn enough prize money to cover the typical annual cost of competing – excluding the cost of coaching*”; that “*with only around 75 out of the ITF’s 210 member nations hosting tournaments, the Circuit is not easily accessible to players in many countries, forcing them to travel widely, at considerable expense, in the search for playing opportunities*”; and that “*a large number of junior players compete extensively in professional tournaments each year, but many are lowly-ranked or unranked and better suited to junior competition*”.

⁵² REA, Chapter 12 Section C(2).

295. The ITF described its changes as centering *“on the launch of the ITF World Tennis Tour, which will comprise the ITF Junior Circuit, \$15,000 tournaments and \$25,000 tournaments (men) / \$25,000-\$100,000 tournaments (women). The new structure is designed not only to provide a clearer pathway for players, but a more effective system, one which links the junior and professional games and which, crucially, ensures that prize money at professional-level tournaments is better targeted to enable more of the men and women taking part to make a living”*.
296. The stated goals of the reforms are two-fold. The first is to *“target prize money at a reduced number of players – approximately 750 men and 750 women with ATP and WTA rankings”*. The second is to *“reduce costs for players and tournament organisers at the entry level, thereby making tournament hosting more affordable, and increasing opportunities for more players from more countries to join the pathway”*. ITF President David Haggerty stated *“the new worldwide tournament structure will help address issues of transition between the junior and senior game, and enable more professional players to make a living”*. The ITF has also stated that *“good performance at one level is linked to guaranteed opportunities at the next level, and is designed to allow successful players to progress more quickly”*.
297. The mechanism chosen by the ITF to achieve this is, as already mentioned in relation to Recommendation 1, to draw a distinction between a professional tier and a developmental tier at the Lowest Level of tennis (with the ITF women’s Mid-Level remaining above these tiers, and the junior circuit below them):
- 297.1 The new WTT professional top tier is to be made up of the former ITF \$25k events. It will involve competition among players (of each gender) currently ranked down to 750 in the world. The new structure will address several of the factors that the Panel identified as drivers of breaches of integrity. To provide better opportunities for players of all nationalities playing in this tier, the ITF’s stated intention is to distribute events throughout the year and around the world in such a way as to reduce the travel demands and related costs for many. The ITF has also stated its intention to increase prize money at events in this tier, thereby allowing players at this tier to earn a larger share of the overall prize money that is offered at \$25k and \$15k events today. By limiting participants to the smaller group, the opportunities for players to earn sufficient prize money to meet their costs are enhanced, benefiting players who are more likely to be aspiring professionals concentrated on advancing their professional tennis careers. A new ITF WTT ranking system is introduced, to provide a rational basis for awarding ITF ranking points based on success in ITF events, while also allowing opportunities for advancement by reserving dedicated places in each event’s draw for players coming up from a lower tier. Commensurate with the characterisation of the new tier as “professional”, events will be live streamed and will be required to meet heightened standards for officials, accreditation, facilities, and security.
- 297.2 The new WTT developmental base tier is to be made up of the former ITF \$15k events. It will involve competition among the approximately 12,500 other players currently playing at ITF \$15k and \$25k events. The new ITF structure recognises that players at this level remain developmental players, who cannot yet properly be described as professional, and are often at this stage after participation on the junior circuit. At this developmental level, the focus is on providing players with a wide range of opportunities to play – close to home, where possible, so as to minimise travel and costs – and to accumulate ITF WTT ranking points sufficient to permit rapid advancement. The ITF WTT ranking system will apply and again dedicated places at events will be reserved for those coming up from below, to increase the opportunities for advancement. To encourage organisers to provide a wide range of local events for players, the intention is to reduce the costs of staging such events. This means, among other things, that the prize money offered will remain low and that the same standards of officials, accreditation, facilities, and security to be introduced on the professional tier will not be applied at the developmental tier. In relation to lower staging costs, the ITF has stated that *“more National Associations are expected to have the opportunity to stage tournaments as a result of the cheaper hosting requirements at \$15,000 level”*, and that *“all ITF World Tennis Tour tournaments will be shorter in length and take place over seven days (including qualifying) and there will be no requirement for a National Association to host consecutive weeks of either \$15,000 or \$25,000 tournaments as is currently the case on the men’s side”*.

ATP Challenger Tour

298. In July 2018, following publication of the Interim Report, the ATP announced changes to its ATP Challenger Tour that will take effect at the beginning of 2019. In announcing the changes, the ATP stated that the changes “*will further professionalise the sport, unlock significant investment and growth in prize money at the lower levels of men’s professional tennis, and lead to a greatly enhanced player pathway*”. Chris Kermode, ATP Executive Chairman and President, stated that “*these are significant changes that will lead to a real enhancement of the ATP Challenger Tour, particularly as we seek to provide more earning opportunities for players at the entry level into men’s professional tennis. A big priority for us is to ensure we have a healthy player pathway and that we improve the viability of a career in men’s professional tennis. These changes represent an important step in the right direction for our sport*”. The principal changes include:
- 298.1 Larger draw sizes, so as to increase opportunities for players to earn prize money and ranking points – “[t]he Singles Main Draw size at ATP Challenger Tour events will increase from 32 to 48, leading to an annual increase of approximately 2,400 available professional job opportunities with prize money and hotel accommodation included.”. Events will take place over seven days.
- 298.2 More prize money, so as to increase the number of players capable of earning a living from the sport – “[a]ll Main Draw players will earn prize money. The increased Singles Main Draw size (from 32 to 48) will lead to 16 more players per tournament earning prize money from 2019. Based on the same number of events taking place as today, it is estimated that an additional US\$ 1 million will be generated through prize money. The highest-level Challengers will offer US\$ 162,480 in 2019”.
- 298.3 The ATP ranking points system will focus on ATP Challenger events. The ATP has announced that “*From 2020, ATP Ranking points will begin at the ATP Challenger Tour only, a change that will significantly reduce the number of ATP-ranked players. The move is aimed at improving the player pathway up and down the tennis ecosystem, while positioning the ATP Challenger Tour as the first stage of professional tennis. The change will also serve to more accurately define the breadth of men’s professional tennis, leading to better services and conditions provided for true professional players, while providing a clear delineation between the professional ranks and the transitional ranks beneath*”.

Final Recommendation in relation to the player pathway

299. The Panel welcomes the significant efforts of the ITF and the ATP in relation to the structure of the sport at the Lowest and Mid-Levels. In particular, the Panel regards the distinction now made between the professional and developmental tiers at the Lowest Level as beneficial. It remains to be seen whether the new structures will have the desired and intended effects, but which the Panel considers that important integrity-related benefits would be realised if the restructured player pathway provides greater financial incentives and prospects for progression.
300. In light of the recent structural changes, the Panel believes that it will be critical for the ITF and ATP to monitor closely how those changes impact incentives and progression. One matter that will require particularly close scrutiny is whether the new ITF and ATP systems will facilitate sufficient mobility within and between the new professional and developmental tiers. The Panel is concerned that in practice, less talented players may stagnate at the levels of the ATP Challenger events or the ITF WTT \$25k events, without any real prospect of advancement. Such players represent a threat to integrity as they block the advancement of more promising players and because they are particularly susceptible to disillusion, temptation, and corruption. The Panel recommends that the ITF and the ATP work together to ensure that there is no bottleneck or floor that precludes movement, up and down, between the ATP Challengers and the ITF WTT \$25k tier. A less talented player who has made it up to the ATP Challenger level should not be permitted to remain there by continuing to earn sufficient ATP points on the basis of mediocre results while a more talented player at the ITF WTT \$25k level has less opportunity to advance by earning sufficient ATP points. The same considerations apply as between the ITF WTT \$25k and \$15k tiers. The WTA should also monitor closely how the changes at the ITF level impact incentives and progression for women.

(b) Specific aspects of the player incentive structure that will require regular assessment by all the International Governing Bodies

301. In the Interim Report, the Panel identified several potential changes to various additional aspects of the player incentive structure in tennis, inviting input on consultation. Since then, the Tennis Governing Bodies have made or scheduled significant changes along these lines. The Panel welcomes such changes and recommends their regular assessment following implementation, not only in light of their ramifications for other aspects of the sport but also for their impact on tennis integrity.

Modification of the ranking points system, not only to place a greater emphasis on making every match count, particularly at the lower and middle levels of the game, but also to facilitate greater mobility of players.

302. Because the ranking points system determines players' access to events and, therefore, greatly impacts player incentives, that system should, to the greatest extent feasible, encourage players to compete ardently every time they take to the court in a professional tennis tournament. As it stands, however, players may not be incentivised to give their best efforts at all times because the ranking points system allows match results to be discounted on too many occasions and may in certain circumstances make it too difficult for players to progress up the rankings. While the ranking system may function well at the higher levels of professional tennis (in particular at the Tour level) this does not mean that it should continue to apply at lower levels, where it may result in deliberate underperformance and, as Richard Ings observed, sow the "seeds of corruption".

303. In relation to modification of the ranking points system, the International Governing Bodies submitted on consultation that "*The ATP and the WTA are evaluating the ranking system with a goal of making it a fair reflection of the match results for each player while maintaining the ability for player flow up and down the rankings. The rankings, beginning in 2019, have been modified to further specify where professional tennis begins (Challenger level) and to better identify the professional player. The new system will reduce the current number of male players holding a ranking from 2,000+ to around 700-750. While not a true divisor system, every match does count due to the fact that all players can improve their ranking every time they step on court. The actual points awarded in each round are being evaluated to ensure that players are encouraged to play in the highest-level event they qualify. Tweaks to the system are inevitable and thus will be closely monitored throughout the next few seasons.*"

304. The Panel appreciates that the ATP and WTA are focusing their efforts on reviewing their rankings systems and encourages such a detailed assessment. The Panel further notes that merely permitting a player to improve his or her ranking through success at a tournament is not the same as making every match count, in that the current rankings system may fail to provide any negative ramifications for a player who loses, even deliberately. Moreover, as the Panel noted in the Interim Report, encouraging ardent competition at every event may be particularly important at the lower levels of tennis, and the Panel reiterates its recommendation that the ITF closely evaluate whether its newly announced ranking system, which will maintain a "best of" approach, should place a greater emphasis on making every match count toward a player's ranking.

Modification of the tennis calendar, to avoid incentivising players to lose.

305. The Interim Report observed that the tennis schedule, in 2018 and before, incentivises deliberate underperformance by permitting events to run into each other and even overlap. The Panel's evidence suggests that this is a significant, recurring problem at the lower levels of the tennis when doubles competitions, which are often viewed by players as less important or valuable, conflict with a singles event in the following week. Players on occasion perceive themselves as better off losing and moving on than seeking to stay in a competition, and some act on that perception.
306. The Panel welcomes the ATP's and the ITF's implementation, at ATP Challenger events and ITF WTT \$25k and \$15k and women's Mid-Level events, of the Panel's recommendation that events should be confined to one week, from Monday to Sunday, so that qualification for an event in week two does not clash with the later stages of the event in week one.

307. In the Interim Report, the Panel sought input on consultation as to whether it would be possible to require doubles competitions to be completed by Friday evening, in order to reduce the incentive for players to lose in doubles deliberately so that they can move on to play qualifying rounds in singles events the following week. The International Governing Bodies submitted in response that such an approach would not be necessary *“at the [ITF WTT] and Challenger Tour level with the introduction of the 7-day events”* and that *“[a] doubles final on Friday at main tour level events is not practical or possible due to the content needs of the individual events”*. The Panel recognises that the introduction of single-week events at the ATP Challenger and ITF levels at least removes the possibility of direct clashes between a doubles final and a qualifying round the following week. In light of the residual risk that players may still prefer to leave a doubles event early, in order to travel to or prepare for, a more important singles event the following week, the Panel suggests that the International Governing Bodies consider whether at least Saturday finals might be possible, if not already in place, and whether other mechanisms can be introduced to incentivise continued participation in doubles competitions.
308. In the Interim Report, the Panel sought input on consultation as to whether it would be possible to extend moderately the special exempts system beyond matches at the same level to allow a player who is still competing in the later rounds of a lower level tournament to be awarded a spot in the main draw of a tournament offering a greater level of available prize money, thereby removing the incentive for the player to lose the match at the lower level tournament to compete in the qualifying rounds of the higher level tournament. The International Governing Bodies submitted in response that *“for Challenger Tour events the special exempt is no longer needed due to no overlap of events. At the top level tour events the system is already in place where success at the 250s can earn a special exempt into another 250 or 500 event; players from a 500 or 1000 event can qualify for a special exempt in a 250, 500 or 1000 event”*. The Panel understands the constraints on any special exempt system at the ITF WTT \$25k and \$15k levels, which might interfere with the careful balance concerning the circumstances when players on the developmental tier may play on the professional tier. The Panel continues to consider, however, that the special exempt system should be expanded at the Challenger level. While, again, the introduction of single-week events at the ATP Challenger level at least removes the possibility of direct clashes between qualification and the later stages of a singles tournament, it remains the case that players may still prefer to leave a less important event earlier, in anticipation of a more important event the following week. It seems to the Panel that if the consequence of success at a lower event were entry at a higher event, it not only would incentivise continued participation at the lower event, but also improve the opportunity to advance through the sport. So far as the Tour level is concerned, the Panel welcomes the implementation of that principle.
309. In the Interim Report, the Panel sought input on consultation as to whether it would be possible to address travel and accommodation costs by scheduling swings of events in closer geographical proximity and requiring provision to players of *“hospitality”* and, possibly, some travel grants. The International Governing Bodies submitted in response that *“the WTA events are all considered as Tour level, so hospitality is already mandatory. Beginning in 2019 hospitality will be mandatory at all ATP Challenger Tour events. Currently on the Challenger Tour, players after competing in 10 Challenger events receive a \$200 travel allowance for each event played thereafter. This is not under consideration in ITF events”*. Further in relation to the ATP Challengers, it was stated that *“starting in 2019, all ATP Challenger tournaments will provide hotel accommodation for all Main Draw players. In total, this will constitute an approximate 20,000 additional room nights provided for players throughout the season”*. As to swings, part of the ITF WTT system is designed to minimise travel costs by better scheduling events so that players can participate in a number of events in relatively close proximity, although the removal of the requirement for a national federation to host consecutive weeks may make this more difficult to achieve.
310. The Panel welcomes the mandatory nature of hospitality at tour and ATP Challenger level. While the Panel can understand the reasons for not having mandatory hospitality at the WTT \$15k developmental tier level, where the intention is to minimize the costs required to stage events, the Panel urges the ITF to consider whether an approach similar to the ATP Challenger approach could be adopted at the ITF WTT women’s Mid-Level, and at the ITF WTT \$25k professional level.

311. The Panel welcomes the International Governing Bodies' acceptance of the Panel's recommendation of precluding players from entering money matches in the same week in which they have entered a professional tennis tournament, thereby removing any incentive for players competing in a professional tournament to lose for the financial rewards of playing in a money match. The International Governing Bodies agreed that *"the optics of this practice are not good and have the potential to facilitate a lack of player effort in the first instance in order to cash-in on the second event. For the overall real and perceived issues, it would be difficult to argue against the recommendation."*

Modification of certain rules on player entry to events that may create incentive problems for players.

312. In the Interim Report, the Panel noted that in the past, if a spot opened up in the main draw, it was filled by the highest-ranked "lucky loser" who lost during the final round of qualifying. Because this system sometimes allowed players to enter the final round of qualifying knowing that they were guaranteed to be a lucky loser, regardless of the result of the final qualifying match, the International Governing Bodies now randomly draw lucky losers from a pool of players; the ATP and the WTA, for example, both draw from the two highest-ranked candidates. The Panel, having acknowledged that this is an improvement, sought input on consultation as to whether drawing lucky losers from a pool of at least four players could be introduced because it would ensure that no player has a substantial chance of being randomly drawn. The Panel also sought input on consultation as to whether player incentives surrounding the wildcard system could also be improved. As it stands, tournament directors generally have complete discretion to award wildcards, which can lead to abuse, such as by the sale of wildcards or by entering into an event low-ranked players who are particularly susceptible to corruption and have no reasonable prospect of winning. The Panel suggested that limiting the provision of wildcards at the Lowest and Mid-Levels to players ranked within a certain range of the lowest-ranked player invited to play in the main draw could counteract these concerns.
313. In relation to the modification of the Lucky Loser system, the International Governing Bodies submitted in response that *"the desired modification has already been implemented. While the ATP does not have a random draw with the same number of potential Lucky Losers, on a proportional basis the ATP is equal to or greater than the Grand Slams. The fact is that no player going into the final round of the qualifying knows that he or she will be in the main draw, win or lose"*. The Panel acknowledges that a draw between two potential lucky losers means that neither player knows whether they will go through. The Panel also appreciates that at ATP level there are fewer first round losers than at Grand Slams. The Panel nevertheless suggests that the ATP reconsider this position in light of the additional integrity-related benefits that could be introduced by drawing lucky losers from a pool of at least four players, as discussed above.
314. In relation to alteration of the wildcard system, the International Governing Bodies submitted in response that *"this issue can be resolved in a more effective manner by requiring tournaments to complete a 'Wild Card Declaration' form. The form would require that the Tournament Director submit the player name, nationality, current ranking plus the reason for awarding the Wild Card. This would include 1) International Marquee Player, 2) National Marquee Player, 3) National Developmental Player, and 4) Other (must specify reason). The form would be submitted to the TIU by the Supervisor of that event prior to the commencement of the event. The TIU would be able to closely monitor matches involving a Wild Card that is not obviously justifiable"*. The Panel recognises the importance of wildcards for the organisation of events. The Panel considers that the International Governing Bodies' suggestion of a system of wildcard monitoring by the TIU is a viable way forward, though its operation in practice should be kept under assessment by the International Governing Bodies as well as by the SB and TIU.

Provision that players who must withdraw due to injury from the main draw of a Grand Slam or ATP and WTA Tour event should receive a share of the losing first-round prize money.

315. In the Interim Report, the Panel noted that at the higher levels of the game, the available prize money, even for losing in the first round, may be sufficient to encourage a player to take the court when unfit to play. Permitting players to share in some prize money when they are legitimately forced to withdraw from the tournament with an injury would counteract this concern. The Panel noted that the ATP made such allowances for injured players on a trial basis, and the Panel recommended

that it should formally adopt this rule going forward.⁵³ And on 21 November 2017, the Grand Slam Board announced that players who retire from a first-round match or “*perform below professional standards*” could face a fine as high as the prize money due to a loser in the first-round, while at the same time injured players who qualify for the main draw and withdraw before the start of the main draw will share the prize money given to first-round losers equally with the lucky loser. The Panel recommended that the ATP and WTA should follow the Grand Slam Board’s lead and adopt a similar, permanent rule for ATP and WTA Tour events. The International Governing Bodies submitted in response that “[t]he Grand Slams and ATP are currently doing this and the WTA is in serious discussions regarding introducing it to their tour in 2019”. The Panel encourages and welcomes the implementation of the recommendation.

Provision to permit players to qualify for a medical exemption and thereby avoid a withdrawal penalty by seeing a doctor closer to home, rather than requiring players to travel to the tournament for a medical examination.

316. In the Interim Report, the Panel noted that if a player must travel to a tournament in order to obtain a medical exemption, incurring the costs of travel, the player may decide simply to go through the motions of playing in the tournament while unfit. The Panel suggested that a change to this rule would eliminate that practice while affording an important accommodation to players with limited resources. The International Governing Bodies submitted in response that “*in the current structure it would be very rare for a player to travel to an event to complete his promotional activity requirements (medicals done on-site are only in the case of players who are injured or become ill at the event) unless it is his wish to do so. Players who are not able to travel or if travel would delay recovery have the option to submit an appeal from applicable penalties, which is never unreasonably withheld*”. As addressed above⁵⁴, however, in the Panel’s view this issue remains an important consideration at the ATP Challenger level, which was the subject of adverse comment by a number of players. It seems to the Panel that on any basis some players may still choose to take the simpler course of playing although unfit rather than appeal and produce evidence. Again the Panel considers that this matter merits reconsideration by the ATP. The ITF has confirmed that it will permit “*players to be granted medical exemptions from local (instead of tournament) doctors. This will be implemented in all ITF Pro Circuit and Transition Tour events from 2019.*”

Limitation on the amount that can be paid as a pure “appearance fee” (i.e., without success at the tournament) and requirement that events publish appearance fees and report them to the TIU.

317. In the Interim Report, the Panel noted that appearance fees create potentially perverse incentives for players to appear, and underperform, at a tournament solely to collect the fees. Making appearance fees depend upon results or, at least, making them more transparent to tennis spectators and the TIU could have a beneficial effect on how players respond to such fees. The International Governing Bodies submitted in response that an appropriate course would be to: “*...require the tournament to send a confidential report to the TIU advising them of the players that they have contracted with to participate in their event. The TIU would then have additional information in the case of intelligence leading to a concern over these players’ matches. If an investigation is required the tournaments could be required to disclose to the TIU the specific terms of an agreement with the player*”. The Panel recognises the practical difficulties in the imposition of any limits on the amount a tournament is able to pay, and in the publication of appearance fees. The Panel considers that the International Governing Bodies’ suggestion of a system of reporting appearance fees to the TIU is a viable way forward, though its operation in practice should be kept under assessment by the International Governing Bodies as well as the SB and TIU.

⁵³ ATP Rule 3.08(A)(3)(a).

⁵⁴ Paragraph 92.

B ESTABLISHING A NEWLY-EMPOWERED TIU WITH INDEPENDENT SUPERVISORY BOARD OVERSIGHT

318. The creation of the TIU in 2009 was an important step in addressing betting-related breaches of integrity in tennis. Just as the nature and extent of the problem facing tennis has changed, however, so too are significant changes appropriate to the organisation, staffing, and governance of the TIU, to ensure that it can effectively discharge its duties with independent oversight. During the course of this Review, and in light of it, the International Governing Bodies and the TIU have themselves made proposals for changes to the form of the TIU and its governance, which the Panel took into account in reaching the provisional recommendations in the Interim Report. One of those proposals included making the new TIU responsible for anti-doping; while this is ultimately a matter for the International Governing Bodies to decide, the Panel took that proposal into account as well. On consultation, the International Governing Bodies provided submissions in relation to the appropriate structure and supervision for the TIU that supported the Panel's provisional recommendations in the Interim Report, subject to certain alternatives that they advanced (which are discussed below). The TIU's consultation submissions indicated its general agreement on these matters with the position of the International Governing Bodies. The Panel sets out below its final recommendations.

(1) Recommendation 3: There should be a new Supervisory Board to provide independent oversight of the TIU

319. As described above⁵⁵, the lack of independence in the organisation of the TIB has resulted in a lack of effective supervision over the activities of the TIU. To remedy this, and to ensure that the TIU has truly independent oversight, a new Supervisory Board ("SB") is needed. On consultation, the International Governing Bodies expressed their *"full support for the establishment of an Independent Supervisory Board which is responsible for the long-term success of the TIU organization"*.

(a) The SB should function as a corporate board

320. While the SB should decide how it should most effectively interact with the TIU, the SB's role will be akin to a corporate board, monitoring the management of the TIU. In addition to this general obligation, the SB should have certain enumerated powers and responsibilities, including approving any changes to the TACP and engaging established and suitable arbitral institutions to appoint independent hearing officers. On consultation, the International Governing Bodies agreed, stating that *"this Supervisory Board should operate in a manner consistent with that of a corporate board, should be vested with the power to lead the organization, and must be transparent and accountable while upholding the high standards of integrity"*.

(b) The composition of the SB should promote its independence

321. To promote the independence of the SB, the Panel's Interim Report provisionally proposed that the SB should consist of seven independent voting members, the first four of whom should initially be appointed by each of the Grand Slam bodies, the ATP, the WTA, and the ITF, within three months of the publication of the Final Report; that these four voting members should then appoint the remaining three voting members of the SB; that the CEO of the TIU should serve in a non-voting, ex officio role on the new SB; and that the SB should elect a Chair of the board, from among the seven voting SB members, who should preside over the SB's periodic meetings.

⁵⁵ Paragraph 160.

322. On consultation, the International Governing Bodies fully supported the principle that the SB should be independent. The International Governing Bodies raised concerns, however, that, first, there should be representation on the SB from tennis to help inform the SB's decisions; and that, second, direct (rather than independent) representation on the SB of the interests of each of the Grand Slams, the ATP, the WTA, and the ITF, was appropriate for those bodies to satisfy their constituents that the SB was basing its decisions on a proper understanding of the diverse and disparate interests of those bodies. The International Governing Bodies proposed an alternative SB structure with nine rather than seven voting members, comprising an independent Chair; four independent members (as selected by the independent Chair); and four non-independent members, one of whom would be selected by each of the four bodies.
323. The International Governing Bodies considered that this alternative approach would ensure an independent voting majority (of five to four), would *"provide for the proper balance needed to ensure that the independent perspective and oversight of the TIU is properly informed by current tennis-specific knowledge"*, and would *"ensure that there is an effective engagement with the stakeholders who are ultimately responsible for what happens within the sport and whose support will be required to gain the support of their respective Board of Directors ensuring that the TIU is sustainable"*. The ITF separately explained its position that *"representation by active members of the International Governing Bodies on the Independent Supervisory Board, but in a minority role, is also appropriate. The International Governing Bodies' representatives would provide a connection between the administrative and operational elements of tennis and the TIU. The ITF takes the view that it is important to maintain that connection, but in such a way that the independence of the TIU is not jeopardised"*.
324. The Panel sees the force of both the suggestion that tennis voices are required on the SB and the suggestion that in practical terms the SB will be able more effectively to fulfil its role if there is engagement and involvement from each of the four bodies, which do on occasion have diverse and disparate interests, as this Review has revealed. The Panel accepts that the achievement of these benefits justifies the International Governing Bodies' suggestion of a larger board of nine members, though a board of that size may prove more unwieldy and costly than a seven member board, consequences that the Panel had sought to avoid in its original provisional proposal.
325. The achievement of these benefits must not, however, imperil the actual independence or the appearance of independence of the SB. In particular, the Panel is concerned about the potential risk to the SB's independence if a voting block were to form among the four non-independent members from the four bodies, notwithstanding that they have diverse and disparate interests and that there would remain a majority of independent voting members. In particular, such a structure would give rise to a concern that only one independent member need be convinced to vote with the non-independent members.

326. In these circumstances the final recommendation of the Panel as to the composition of the SB is that:
- 326.1 The SB should have nine members, comprising (1) an independent Chair who should be appointed first, following a recruitment exercise undertaken by an external agency, and who should be appointed within three months of the date of the Final Report; (2) four independent members, who should be selected by the independent Chair with the assistance of the external agency; and (3) four non-independent members, one of whom should be selected by each of the four bodies.
- 326.2 The Chair and four independent members should have one vote each. By contrast, the non-independent members of the SB should each have half a vote. This voting structure will allow the views of each non-independent member, representing the perhaps different positions of the relevant appointing tennis body, to be heard; will allow each such member to vote; and will safely preserve the independent voting majority on the SB (five to two).
- 326.3 The CEO of the TIU should serve in a non-voting, *ex officio* role on the new SB, and the Chair should preside over the SB's periodic meetings.
327. At all times, the members of the SB should be individuals with the highest character and reputations for integrity. To ensure the reality and appearance of independence, these individuals cannot have any personal interests connected to tennis, financial or otherwise, and should not have had any connection to tennis or the betting industry for a considerable period of time. This would, for example, preclude service by anyone who, in that period, played professional tennis, worked in any capacity for any of the International Governing Bodies, worked as a senior employee of a tennis equipment manufacturer or distributor, or worked in any capacity for the TIU. In the Interim Report the Panel noted that it considered the appropriate period to be ten years.
328. On consultation, the International Governing Bodies stated that *"while [the International Governing Bodies] fully support the need for independence it is felt that ten years is excessive and that [a] three years period is more appropriate"*. The concern expressed by the International Governing Bodies is that able candidates could be unnecessarily excluded on the basis of a ten-year test, in circumstances where such candidates retained no relationships or views based on their previous tennis involvement that could reasonably be expected to affect their independence or the appearance of it.
329. The Panel sees the force of the contention that ten years is too long for the reason stated, but the Panel also considers that three years is too short a period to safeguard the reality and appearance of independence. The Panel's final recommendation on this matter is that the five independent members of the SB cannot have any personal interests connected to tennis, financial or otherwise, and should not have had any connection to tennis or the betting industry for a period of five years.
330. Subject to the above requirements, appointments to the SB should place weight on, among other factors, the goal of creating and maintaining a diverse SB with an international composition, sports enforcement or regulatory expertise, and financial and legal competencies. On consultation, the International Governing Bodies agreed, stating that they *"believe that to deliver the leadership desired these independent positions of the Supervisory Board should provide for expertise from multiple sectors as this will provide for the diversity in approach to issues that then leads to the balanced and strategic decisions required"*. If anti-doping is to be included within the scope of the new TIU's remit, as it now appears that it will be, appointments should also place weight on including scientific or medical competency on the SB.

(c) The SB should be self-perpetuating

331. The SB should be self-perpetuating. Taking into account the final recommendation for the composition of the SB, described above, new independent members should be elected by the existing five independent members. To balance experience with independence, the terms of the five independent members should be staggered and limited, with each of those five SB seats holding alternating four and five-year terms, with a two-term limit. On consultation, the International Governing Bodies stated that *“length, rotation and staggering of the SB terms are standard components that preserve independence – the principle with which [the International Governing Bodies] all agree”*. As to the non-independent members, they should be appointed by the relevant bodies, and should be replaceable at will by those bodies, but no individual should serve for longer than two four-year terms.

(2) Recommendation 4: The TIU should be reorganised with more independence and greater capabilities

332. In the Interim Report, the Panel recommended that the TIU should be reorganised, not only to ensure that it is, and appears to be, independent of the International Governing Bodies, but also to ensure that the TIU is led by a Chief Executive Officer who will appoint its staff, determine its structure, and set its strategies so that it is capable of discharging all of its existing and new responsibilities and of meeting the substantial challenges faced. During the consultation period, the Panel received submissions from the International Governing Bodies, the ITF, and the TIU that broadly supported these principles, subject to the alternative proposals described below.

(a) The TIU should be established as a body independent of the ITF, with its own separate legal personality and premises

333. As currently constituted, the TIU has no distinct legal personality. It is located in the same building as the ITF, and its staff are employees of the ITF. This limits the TIU's independence, authority, and effectiveness. For example, without separate legal status, the TIU is limited in its ability independently to enter into contracts or join in civil or, in certain jurisdictions, criminal proceedings as a party. That should be changed, so that the TIU has an independent legal personality of its own as well as its own premises that are separate from the officers of any of the International Governing Bodies. The SB should determine the form of the TIU's legal personality. The SB and the International Governing Bodies should take into account, before incorporating the TIU in a certain country, that the TIU's place of incorporation should not prevent mutual legal assistance in criminal matters with authorities from other countries, such as under the Macolin Convention, or make such cooperation unduly difficult.
334. The principal concern expressed on consultation concerned the proposition that the TIU should have its own premises. The International Governing Bodies stated that *“while [they] agree with the principle of independence, [they] also believe there are efficiencies and benefits in using ITF operating systems, and having daily access to tennis knowledge if needed, all of which would normally be considered advantageous by any measure and has proved so”*. In its separate submission to the Panel, the ITF stated that *“while the ITF does not oppose the possibility of the TIU having its own premises, it does not believe that this is necessary to ensure its independence. It is entirely feasible that the TIU can have its own dedicated office space, staff and supporting infrastructure that ensures its full independence, while remaining within the same building as the ITF. Other integrity-related sports organisations that are (or have been) housed within the same network of buildings as the sports for which they provide integrity services, are accepted to be independent (such as the Athletics Integrity Unit)”*. The TIU further stated: *“[I]t is agreed that the TIU should establish its own independent legal personality but the TIU resists the recommendation to relocate offices. In considering all relevant factors it is submitted that the advantages of remaining at the current location, on balance, outweigh the possible public perception of conflict or undue influence: (1) Staff retention is vital to the TIU and a decision to relocate could affect both existing staff and the attractiveness of the TIU to new recruits in a specialist and competitive recruitment market; (2) Direct access to tennis expertise across a wide range of operational areas is a distinct benefit which would be compromised by relocation; (3) There are very substantial time and cost factors involved in relocation which we do not believe are justified; (4) There has been no serious suggestion from observers, other than the IRP, that the current arrangements compromise the independence or integrity of the TIU. Drawing on comparisons in other sports, it is interesting to note that the International Cricket Council's Anti-Corruption Unit is*

based in the main ICC offices in Dubai. Like the TIU, its offices have restricted access from the rest of the organisation via a confidential entry system. Similar co-location situations exist at the English RFU, in World Rugby based in Dublin and the Badminton World Federation in Kuala Lumpur. It should also be noted that the Bank of England offices in Roehampton are a general commercial facility hosting multiple tenants, in addition to the ITF and TIU (which already occupy different floors and space)”.

335. The Panel carefully considered the points raised. The Panel’s view remains that the interests of independence and the appearance of independence of the SB and TIU, separation between the sport’s integrity function and its promotional and developmental function, and therefore the authority and effectiveness of the SB and TIU, militate strongly in favour of separate premises, and outweigh the perceived advantages in retaining shared premises, such as time and cost of relocation and the impact on staff retention and recruitment. It does not seem to the Panel that moving to new premises in London as opposed to a new country, if that is what the SB decides, would have a significant impact on staff retention. It further seems to the Panel that while the SB and TIU should have the benefit of tennis expertise, this should come from the non-independent members in the case of the SB, and from the TIU’s own tennis expert staff, and should not come from those involved in the promotion and development of the sport, if the independence of the integrity function, and its appearance, are to be maintained. With that guidance, the Panel views it as appropriate to leave for the SB, once it is appointed, the final decision regarding the location of the TIU, including as to whether it can share premises with the ITF. In its choice of location, the SB should bear in mind the need to facilitate mutual legal assistance such as that afforded under the Macolin Convention.

(b) The TIU should be led by a CEO who is appointed by the SB

336. In light of the scope of its operations and responsibilities, the TIU needs a Chief Executive Officer to oversee the entire breadth of its mandate, including the investigatory functions currently managed by the TIU’s Director of Integrity. The CEO of the TIU should be appointed by the TIU’s new SB. The CEO of the TIU should be independent, complying with the same independence requirements as the independent members of the SB, but without any term limitation. The TIU’s CEO should be appointed within five months after the Panel’s Final Report is published.

(c) The CEO should determine the TIU’s organisation and staffing, to ensure adequate and diverse coverage of key competencies

337. The TIU’s CEO should appoint the TIU’s staff and determine its organisational structure in order to ensure that the organisation is prepared to discharge all of its existing and new responsibilities and to meet the substantial challenges it faces. The Panel expects that the TIU will at least satisfy the parameters set out in the TIU’s proposals submitted to the Panel during the course of the Review, including securing at least 12 full-time investigators, the number the TIU stated are necessary. The Panel expects that efforts will be made to ensure diversity in those appointments.
338. Moreover, in light of the centrality of betting and legal issues to the TIU’s remit, the Panel considers that the TIU should employ an in-house betting expert and in-house legal counsel (with a disciplinary and/or criminal law background and international experience) so the important day-to-day issues that arise in those areas are addressed proactively and consistently. The TIU should also engage one or more tennis experts to assist in evaluating tennis issues as they arise, including in the evaluation of video footage from matches, though the specifics of such engagements should be decided by the TIU’s CEO. On consultation, the International Governing Bodies agreed with this recommendation in principle, noting that staffing decisions are to be determined by the CEO of the new TIU.
339. And, to assist with anti-corruption efforts internationally, the TIU should engage or designate regional officers who are familiar with the cultural and legal complexities of their assigned geographical areas and place a greater emphasis on appointing staff with international diversity. While the particular geographical distribution of regional officers is left to the TIU’s judgment, regional officers should be appointed to cover all of the significant tennis-playing regions of the world, with an emphasis on ensuring that culturally and linguistically diverse regional officers are assigned to cover areas that pose the greatest risk to tennis integrity.

340. To enable the TIU's CEO to determine its staffing, any further appointments by the TIU pending the CEO's appointment should be on a provisional basis, subject to review by the CEO when they take office.

(d) The TIU should be properly and securely funded

341. The Interim Report observed that the TIU must receive adequate funds from the International Governing Bodies to fulfil its mission. While the International Governing Bodies fully supported that proposition on consultation, they suggested an alternative approach to the Panel's provisional recommendation in the Interim Report that mechanisms be put in place to guarantee funding of the new TIU in a way that is irrevocable and unconditional. The International Governing Bodies expressed concern that there must be proper and sufficient financial control over funding, stating that they *"agree as they always have that the TIU should be properly funded and commit to that funding. That said, we do not consider that such funding should in any circumstances be unconditional. Funding determinations by the SB should be justifiable."*
342. In its separate submission to the Panel, the ITF stated that *"an adequately funded TIU is important. However, the ITF does not agree with the Panel with respect to its recommendation of the mechanism by which TIU is funded by the International Governing Bodies, which is irrevocable and unconditional. The International Governing Bodies agree to fund the TIU, but as for any responsible funding body, they must have authority to approve requests for funding. The International Governing Bodies' commitment to that funding is adequately demonstrated by the fact that (to the best of the ITF's knowledge), no reasonable request for additional funding by the TIU has ever been refused"*.
343. The Panel sees the force of the contention that there must be appropriate controls over the TIU's finances and that a funding mechanism that makes funding irrevocable and unconditional could potentially compromise that goal. The Panel's final recommendation on the funding mechanism is that it should operate as follows: (1) a funding proposal should be made by the TIU to the SB in the form of an annual budget; (2) the SB should review the proposal and decide whether to approve or revise it; (3) the International Governing Bodies should review the final proposal with a power to dispute, and ultimately to reject, the annual budget as a whole (and not individual parts of it); (4) in which case the previous year's budget should be repeated for the next year, subject to acceptance of a revised proposal; and (5) the operation of the funding proposal process should be one of the matters examined in an annual external audit, discussed immediately below. The International Governing Bodies should agree amongst themselves to a proportionate allocation of the cost of funding the TIU taking into account all factors including their respective finances.

(e) There should be an annual external audit

344. The Panel maintains its view that public confidence would be promoted by an external independent auditor, who would produce a public report on the performance of the TIU, following a review of the TIU's investigative files. Such a report would be produced by the external auditor to the SB, and then published by the SB. Following input on consultation, the Panel recommends that such an audit should be annual.
345. The Panel also recommends, following input on consultation, that there should be an external audit, every three years, of the SB's performance of its functions, including such matters as the operation of the funding proposal process. Such a report would be produced to the SB itself, and then published by the SB.
346. Due to privacy concerns, the external auditor should avoid publication of information that could jeopardise ongoing investigations, and its public report should be subject to the right of the TIU and the SB to redact confidential information.
347. There may also be some matters that the auditors believe should be brought to the attention of only the TIU and the SB. That option should be available to the auditor within its discretion.

(f) The International Governing Bodies should decide whether to include anti-doping and any other integrity matters under the new TIU's purview

348. Under the Terms of Reference, it is beyond the scope of this Review to determine whether anti-doping efforts in tennis and any other integrity matters should come within the purview of the new TIU. This is a matter for the International Governing Bodies to address, preferably in connection with the establishment of the new TIU. The Panel understands from the input on consultation that the International Governing Bodies intend to bring these matters under the ambit of the new SB and TIU.

C PREVENTING BREACHES THROUGH EDUCATION, CONTROL OF ACCESS, AND DISRUPTION

349. This section sets out the Panel's further recommendations for preventing breaches of integrity through (1) improvements to education; (2) improvements to the accreditation system for professional events and creation of a registration system for event participants, to better control access to players; (3) improvements to security at events; (4) use of an "*excluded person*" procedure, to further shield players from would-be corruptors; and (5) increased use of "*disruption*" techniques – for example, approaching a player or official in advance of a match that has been flagged as potentially compromised. On consultation, the Panel received submissions in relation to these matters that were, subject to the points identified below, supportive of the recommendations. The Panel sets out below its final recommendations.

(1) Recommendation 5: Integrity education should be expanded and improved

(a) Increase or establish mandatory in-person integrity training at all levels for players and officials

350. In order to improve the effectiveness of its educational programs, the TIU should expand its in-person integrity training efforts to focus on levels of the sport where tennis is most vulnerable to breaches of integrity. In-person training, particularly in combination with online training, promises to be more effective than online training alone because the in-person setting commands target populations' attention and engages them in the learning process. Particularly for young, active, and busy tennis players, the TIU should take whatever feasible steps it can to increase their engagement in integrity education.
351. In the Interim Report, the Panel noted that the TIU's in-person training has focused on players at the highest levels of the sport, with limited in-person training for younger and lower-ranked players. As a matter of practice, in the professional ranks, in-person integrity training has been provided only to the top 200 men players, who attend the ATP University, and the top 200 women players, who receive one-on-one training from the WTA. The Panel recommends establishing in-person training for players outside the top 200, down to the Lowest Levels of the professional sport. The TIU should consider providing in-person integrity training, through individual or small group presentations, at a diverse range of ATP, and WTA and ITF events, prioritising in-person education for events and player populations that the TIU believes are subject to the highest integrity threats. The integrity training provided should not be limited to those areas of the sport where official data are to continue to be sold. This is because the players at the WTT junior level and on the ITF WTT \$15k developmental tier likely include the next generation of players who will move up through the professional tiers of the sport. In recognition of the logistical and geographic obstacles to training all players who participate in professional tennis, the TIU should engage, through its regional officers and, where possible, with the assistance of the national federations, in order to distribute in-person education to as many players as possible.

352. The TIU should also provide greater in-person training to officials at all levels of the sport. In the Interim Report, the Panel noted that the TIU has given in-person training to officials only at Grand Slam events; officials at other levels of the sport did not regularly receive any in-person training. Moreover, the TIU should consider providing mandatory in-person education for all Tournament Support Personnel during the introductory meeting or training that already occurs before most professional events.
353. The Panel welcomes the fact that the TIU has made a start on implementing some of these recommendations for improvements to its education programme, following its appointment of a specialist educator and development of an Education and Training Strategic Plan, which identifies the need for (1) an increase in face to face education delivery, (2) consultation with the relevant stakeholders, (3) prioritisation of junior players transitioning to the professional circuits and professionals competing at the lower levels of the game, (4) development and launch of further online education modules, and (5) a *“train the trainer model”*. The ITF has also launched a new *“Knowledge”* platform that is directed at junior players but is accessible and suitable for all players and others. Further, a TIU Education branding process has been launched, and all new resources will now carry this branding.
354. The Panel urges the TIU, the International Governing Bodies, and where appropriate national federations, to carry on the work they have started in order to implement fully the above recommendations.

(b) Require online integrity education for all Related Persons and Tournament Support Personnel

355. The TIU’s TIPP has to date only been directed at players. While the TIU has developed videos for officials, there are currently no online integrity educational efforts directed at officials, coaches, trainers, agents, or other Related Persons or Tournament Support Personnel. To fill these gaps, the Panel recommends requiring online integrity education and training for officials, coaches, trainers, agents, and other Related Persons and Tournament Support Personnel. The online integrity education should be run in concert with the Panel’s new registration system, as discussed further below.

(c) Use electronic and social media as well as branded materials to keep players and the public informed of breaches and other integrity issues

356. To improve awareness about integrity issues and promote informal integrity education, the TIU should employ social media to facilitate real-time dissemination of integrity-related information to players and the public. Using the International Governing Bodies’ player portals, the TIU should also post and disseminate information to players about sanctions imposed for integrity breaches, with an accompanying description of the bases for the sanctions, and provide supplemental education on betting and corruption. In addition, the TIU should develop TIU-branded educational materials that can be distributed to players at events.
357. Again, the Panel welcomes the fact that the TIU has made a start on some of these aspects, as noted above, and urges it to carry on the work it has started in order to implement fully these recommendations.

(2) Recommendation 6: Tennis should adopt robust registration, accreditation, security, and exclusion practices

(a) Registration of key tennis participants should be required

358. Some important tennis participants who should be bound by the contractual requirements of the TACP, including coaches, trainers, physiotherapists, and other medical personnel, may not be covered because they have never been required to agree to its terms. In light of their integral role in the sport, their relationships to players, and their access to inside information about players, such individuals should be required to register – under a system to be agreed between the International Governing Bodies and the new SB and TIU – with the endorsement of the player with whom they are associated. While the question of whether tennis should employ a system for certifying individuals as qualified to perform such functions is beyond the Panel’s role, registration should be a prerequisite to obtaining special accreditation to non-public areas at events, as discussed below.

359. The registration process should require all adult applicants to provide basic personal information (such as name, address, and date of birth) and to contractually agree to comply at all times with the obligations set out in the TACP. There should be payment of a fee, allowing background checks to be performed, where appropriate. In addition, the registration process should require completion of an educational program designed for Covered Persons other than players, appropriate to their role. Registered individuals who seek to remove themselves from the registration list may do so only once, and their obligations under the TACP should continue for one year after the later of when they first registered or they last received accreditation.
360. Registered persons should prima facie (but not necessarily) be entitled to accreditation for areas appropriate to their role. Persons who are not registered should not be able to obtain accreditation for such areas.
361. On consultation, the TIU asserted that a registration system of key tennis participants along with (as recommended in subsections (b) and (d) below) a central registration and accreditation database for the whole sport *“would be an enormous undertaking to compile and maintain and would likely need to operate on a 24/7 basis. It is also possible that such a system would invoke privacy issues as a result of European GDPR legislation”*.
362. The Panel nevertheless considers that the registration system described above is essential for the TACP to extend indisputably to all of the key tennis participants. It will be for the new SB and TIU to agree with the International Governing Bodies on the precise mechanism to achieve such a system as well as on the distribution of the relevant tasks and associated cost, which is in the Panel’s view justified. The system will of course have to comply with all relevant legal requirements, including those as to privacy, but the Panel does not consider that the system is precluded as a result. Just as players are already registered and indisputably covered by the TACP, so too should be other key tennis participants.

(b) The accreditation system should be improved

363. As set out above, accreditation controls should be a minimum requirement for any event in respect of which official live scoring data are sold. They should also be – to the greatest extent possible – a requirement for ITF WTT \$15k developmental tier events even without official live scoring data being sold for those events. Accreditation controls serve important integrity-related purposes. First, they permit events to identify individuals who should have access to secure areas, and to exclude those who should not. Second, in the event of a suspected integrity offence involving a player, they permit the TIU to identify which individuals have had special access to the player.
364. As set out above, only properly registered coaches, trainers, and medical personnel should be eligible to receive a level of accreditation that would allow them into non-public areas appropriate to their role – such as locker rooms, training facilities, medical areas, and player lounges – where players congregate, and may receive medical attention, at an event. To qualify for other levels of accreditation at a professional tennis event, such as to an area reserved for player guests, the individual seeking accreditation may elect to complete the registration process described above, but at the very least should be required to complete an application that includes identifying information and a commitment to comply with the TACP. All accreditations should be specific to the person for whom it is provided and incapable of transfer.

(c) The International Governing Bodies and the TIU should take proactive steps to safeguard players against online access and abuse

365. Players are subject to intolerable levels of online abuse, often from disappointed bettors. This appears to be a significant problem throughout all levels of tennis, and it must be addressed so as better to protect players. The WTA deserves recognition for putting in place measures to assist players in relation to abuse. In the view of the Panel, however, the International Governing Bodies and the TIU can and should do more to coordinate their efforts in the interests of players.

366. In particular, the International Governing Bodies and the TIU should coordinate security efforts to ensure that robust processes are in place to handle online threats and corrupt approaches to players. To that end, the International Governing Bodies and the TIU should work together to develop guidelines and protocols for addressing inappropriate online contact to players, and each of the International Governing Bodies should appoint a liaison to interface with the TIU concerning such matters.

(d) There should be a central registration and accreditation database

367. A centralised database should be created and operated under a system to be agreed between the International Governing Bodies and the new SB and TIU. It should contain current registrations, as well as current and past accreditations. This centralised registration database should serve as the reference for events to determine whether an individual is eligible for accreditation on the basis of that registration and the type of accreditation to which the individual is eligible.
368. Finally, the centralised registration database should also maintain information on persons who should not be credentialed and provide this list to professional events. If, for example, a person has been caught scouting or attempting to corrupt players, that individual should be placed on a no-credentials list and denied entry to any event endorsed by the International Governing Bodies. On consultation, the International Governing Bodies stated that “a ‘No Credentials’ list has been part of TIU’s work for some time”. The Panel notes that the TIU’s website states: “The TIU works closely with the sport to prevent would-be corruptors gaining access to player-only areas of tournaments. Standard protocols include the global sharing of a TIU-maintained list of individuals regarded as unsuitable to receive credentials”.
369. As set out above (in subsection (a)), the TIU expressed concern on consultation about the work that would be required of it to operate a central registration and accreditation database for the whole sport and suggested that such a database could raise legal and privacy issues. As set out above, however, the Panel remains of the view that the registration system is essential. Moreover, accreditation, which is also essential, is presently carried out by the four International Governing Bodies and the events that they endorse, at their individual costs. The Panel’s recommendation is that the accreditations that they presently grant should be recorded on a central database to which the TIU has access, and not that the TIU should assume responsibility for granting accreditation. The International Governing Bodies, however, may consider that a degree of centralisation in the grant of accreditation might save total costs and time. Again, it will be for the new SB and TIU to agree with the International Governing Bodies concerning the specific implementation of the central database. The essential element is that the grant of registrations and accreditations be recorded, and that all those who need access to those records for the protection of integrity, especially the TIU, should have that access. Lastly, again, all relevant legal requirements, including those as to privacy, will have to be complied with, but the Panel does not consider that a central registration and accreditation database is precluded as a result.

(e) Improved event security: the International Governing Bodies should ensure minimum security for events at all levels

370. As discussed above, certain minimum-security requirements should be prerequisites of the sale of any official live scoring data in respect of any professional tennis event. These include an appropriate accreditation system, perimeter control, and personnel on the ground to restrict access to the event grounds and secure player areas to appropriate persons. In addition, regardless of whether official live scoring data are sold, an event endorsed by the International Governing Bodies should have designated, on-site officials who are able, on the TIU’s behalf, to disrupt attempts to create parallel betting markets and to harass or improperly influence players.

(f) Exclusion procedure: the TACP should prohibit Covered Persons from having contact with individuals who have been excluded by the TIU

371. A new exclusion procedure should be introduced further to limit exposure of players, officials, and other Covered Persons to individuals who have sought to compromise the integrity of the sport. Such individuals may not be subject to direct discipline in an enforcement action by the TIU because they are beyond the reach of the TACP. This new procedure would permit the TIU to apply through

the disciplinary structure for a ruling that an individual should be classified as an “*excluded person*”, whether or not the excluded person is otherwise covered by the TACP, on proof of commission of a TACP offence or involvement in another person’s breach of the TACP. The individual would be notified of the intended application and would have a full and fair opportunity to defend it during the course of the disciplinary proceedings. Excluded persons could be excluded for a period of time based on, and commensurate with, their commission of a TACP offence or their involvement in the commission of a corruption offence by a Covered Person. An exclusion could be made subject to such qualifications or conditions as are deemed appropriate.

372. During that time, excluded persons should be denied credentials and access to tennis events in any capacity, and they should have no involvement in professional tennis. In addition, the TIU should make the names of everyone on the “*excluded person*” list available to all Covered Persons, and the TACP should prohibit any Covered Person from having contact or association with an excluded person. There may be limited circumstances where a Covered Person would continue to be permitted to have contact unrelated to tennis with an excluded person, such as a close family member, but those exceptions should be rare and limited.
373. On consultation, the PTIO’s lawyers, Smith Hulse & Busey, raised the concerns that making an “*excluded person*” list available to all Covered Persons and precluding their contact or association with excluded persons “*may be legally unenforceable, particularly in jurisdictions outside of the United States, where “excluded persons” may (i) challenge the exclusion procedure by seeking a restraining order or other similar judicial intervention in a court where the TACP would not apply or (ii) sue the TIU or other governing body members for defamation, tortious interference or other reputational damages resulting from the excluded person’s inability to continue to communicate with Covered Persons*”.
374. The Panel agrees that there might be the possibility of a challenge, absent (1) the procedural safeguards referred to above, whereby a person can only be excluded following an application by the TIU through the disciplinary structure, notification of the person of that application, and a full and fair opportunity for that person to defend it during the course of the disciplinary proceedings; (2) exclusion requiring proof of commission of a TACP offence or involvement in a breach of the TACP by a Covered Person; (3) the length of the exclusion being commensurate with the facts; and (4) the application of appropriate exceptions where contact unrelated to tennis is permitted. The Panel considers, however, that the new SB and TIU will, taking appropriate legal advice, be able to introduce a system into the TACP that provides sufficient safeguards to preclude or at least minimise the prospects for any such challenge. Other sports and sports regulators, including WADA⁵⁶, have been able to do this. The Panel also considers that the potential benefits warrant the introduction of such an exclusion process, properly tailored on the basis of advice to address legal requirements, notwithstanding the possibility of a challenge.

⁵⁶ Article 2.10 of the WADA Code 2015 addresses “*Prohibited Association*” in circumstances where an individual “*has been convicted or found in a criminal, disciplinary or professional proceeding to have engaged in conduct which would have constituted a violation of anti-doping rules if Code-compliant rules had been applicable to such Person*”. WADA publishes a “*Prohibited Association List*” of designated individuals on its website.

(3) Recommendation 7: Disruption

(a) The TIU should exercise its discretion to “disrupt” activity in respect of potentially compromised matches

375. Where the TIU receives credible information that a future match may have been compromised, it should consider using the “disruption” technique of approaching a player or official about such concerns before a match. Of course, there are trade-offs inherent in such disruptive techniques – principally, that pre-match notifications have the potential to compromise investigations by alerting corrupt individuals to the TIU’s suspicions, thereby allowing them better to conceal their conduct and to destroy evidence. In the Panel’s view, however, there are circumstances where the value of such techniques in facilitating the collection of evidence or in preventing breaches of integrity may outweigh the potential risks, such as when the TIU seeks to alert an official to observe a player’s conduct closely because the player has been the subject of repeated betting alerts or when the TIU receives a pre-match betting alert but does not believe that any official or player involved in the match has engaged in any misconduct. The TIU should exercise its discretion to employ such techniques as circumstances warrant, while judiciously avoiding unduly disrupting the sport.
376. On consultation, the TIU supported the judicious and discretionary use of disruption where warranted by the circumstances: *“the TIU has used disruption techniques on an occasional basis and will continue to consider it as a viable tactic on a case-by-case basis. While it can potentially prevent corruption taking place, there is also a risk that it can result in the loss of evidence as prewarning can give the opportunity to dispose of incriminating material and warn co-corruptors. On that basis it can be seen as a short term tactic that does not fully address an individual’s potential for involvement in wider corrupt practices”*.

(b) The TIU should, when legal and appropriate, engage in integrity testing of Covered Persons suspected of breaches of integrity

377. When the TIU has information (such as, for example, suspicious betting patterns) that a Covered Person may be engaged in corrupt activity, the TIU should carefully consider employing “integrity testing”, an investigatory technique whereby a trained, and where possible undercover, TIU representative would test whether a Covered Person will engage in an integrity offence, such as by fixing a match or providing inside information. To avoid abuses, any such test must be calibrated to the financial condition of the targeted Covered Person. This practice would allow the TIU to test the integrity of a suspected Covered Person in a controlled environment. If the Covered Person rejects the approach and reports it, that would tend to dispel any suspicions about the Covered Person’s integrity. The TIU has identified integrity testing as a technique that it would adopt, but the TIU will need to employ this technique cautiously, taking into account the legal environment, as it may conflict with the law in certain jurisdictions. Ideally, this technique should be employed in coordination with law enforcement authorities.
378. The Panel received a number of responses on consultation in relation to integrity testing, emphasising that the approach should only be used where legal and appropriate, and that there may in some circumstances be countervailing reasons not to use it. The ITF stated that *“the protection of integrity should, in the opinion of the ITF, strike an appropriate balance between ensuring that punishments that act to both deter and enforce breaches of integrity are imposed, and securing the ‘buy-in’ and cooperation of those who are covered by the relevant rules (such as by encouraging them to act as advocates for the protection of integrity). That ‘buy-in’ may be more difficult to secure if the perception exists that the TIU is engaged in a programme of tempting people into breaches of integrity. In fact, it may have the opposite effect and create unnecessary conflict between the International Governing Bodies and the players. For that reason, the ITF does not support ‘integrity testing’”*.
379. The Panel agrees that integrity testing should not be used in a widespread or indiscriminate way and that it should be initiated only where there is good cause to suspect a player. The Panel considers that in such circumstances it would be unlikely that the system would be regarded as *“tempting people into breaches of integrity”* in a way that imperiled the *“buy-in”* to the rules of honest and compliant players.

380. The TIU also stated, and the Panel acknowledges, that “...wider considerations should be taken into account in respect of integrity testing. In some jurisdictions it can be seen as entrapment, thereby breaching local laws. It can also result in lower penalties if ‘guilty’ parties are prosecuted for failing to report a corrupt approach, for example, rather than sanctioned for a more serious offence”. Similarly, Smith Hulsey & Busey stated that “such procedures are typically permitted when conducted by law enforcement, but as noted by the Panel, such tactics may have different legal implications for TIU or other individuals acting without sovereign immunity or other legal protections afforded to law enforcement”; that “a Hearing Officer may consider these procedures as entrapment or otherwise disregard evidence obtained by the TIU in a secretive way”; and that “if such procedures are to be used by the TIU, the TACP should be amended to expressly authorize integrity testing during the TIU’s investigation process. Consent by Covered Persons to the TACP will mitigate any arguments by accessed players that integrity testing or other similar tactics are unfair or beyond the scope of the TIU’s authority”.
381. As stated in the Interim Report, the Panel agrees that integrity testing should only be used where legal and appropriate. For the reasons provided on consultation, the Panel also agrees that the possibility of the approach being used should be expressly included in the TACP.

D ENFORCING EXPANDED INTEGRITY RULES AND PUNISHING OFFENDERS

382. Finally, as to the enforcement of tennis integrity rules and the punishment of offenders, this section recommends: (1) amendments to the prohibitions on, and obligations of, Covered Persons under the TACP; (2) improvements in the TIU’s investigative processes; (3) modifications to the disciplinary process for alleged breaches of the TACP; (4) measures to increase the transparency of the TIU’s enforcement efforts; and (5) improvements to facilitate more cooperative investigation and enforcement efforts for the TIU with local tennis communities, national federations, and law enforcement. On consultation, the Panel received detailed submissions on these matters that were, subject to the points identified below, broadly supportive of the recommendations. The Panel sets out below its final recommendations, addressing and taking into account the submissions received.

(1) Recommendation 8: The prohibitions and obligations of the TACP should be clarified and expanded

383. To make it more practicable to detect, investigate, and prove breaches of integrity, and to deter their occurrence, a number of amendments should be made to TACP provisions that prohibit behaviour and impose obligations to assist in the investigatory process. At present, the rules make it too hard for the TIU to prove offences, and too hard to secure required cooperation. The Panel considers that the rules should be redrafted rather than simply amended; that process will necessarily raise further refinements. The Panel does not embark on that drafting exercise here, but it sets out below the principal recommended changes. As discussed below, the TIU would enjoy broad prosecutorial discretion in deciding when and how to invoke the recommended rules in order to safeguard the integrity of tennis.
384. The new TACP should be accompanied by a practical guidance document so that the effect of the rules can be easily understood. Examples illustrating the application of the rules, particularly at the margins of prohibited and permitted conduct, would also help to educate Covered Persons about their obligations.
385. Comments were received on consultation in relation to these general propositions. The TIU stated: “the TACP is reviewed on a constant basis and where improvements are identified it is updated/ amended accordingly. It is accepted that a more fundamental review would continue to strengthen the code. Independent legal experts familiar with the TACP should be commissioned to assist the sport in this task”. The Panel agrees.
386. Smith Hulsey & Busey stated that “the Panel’s recommended changes related to the TACP ...would facilitate and improve current corruption enforcement”. They suggested that the scope of the changes and additions to the TACP would risk making the rules more lengthy and complex, but at the same time resisted the suggestion that the TACP should be redrafted rather than amended, on the grounds that the TACP had been in place for ten years and had been the subject of review by hearing

officers and CAS. They also suggested that *“the decision regarding whether to redraft or amend the TACP should be postponed until the governing bodies have determined which of the Panel’s recommendations they wish to make to the rules”*. The Panel accepts that the way in which the TACP is changed will be a matter for the new SB and TIU once in place. The Panel also appreciates the tension between the competing considerations of avoiding complexity and preserving wording that has the benefit of having been interpreted by hearing officers or CAS. The Panel considers that redrafting is the preferable course in the interests of clarity, and that such a redraft need not be significantly more lengthy or complex. Where a substantive change is not made, and a provision has been the subject of prior hearing officer or CAS analysis, the same essential wording can be used. Where a change is made, any previous hearing officer or CAS analysis of the prior provision would in any event be superseded.

387. In relation to the practical guidance document, and also to the sentencing guidelines later addressed, Smith Hulsey & Busey stated that *“although examples may help to make the rules more easily understood, we fear the Panel’s recommendation may result in an overly cumbersome framework that may not enhance Covered Persons’ comprehension of the rules”*. The Panel heard from a number of interviewees during the Review that such guidance would be helpful. While its form and length are matters for the new SB and TIU once in place, the Panel considers that there should be such guidance.
- (a) **Contriving the result: the TACP should prohibit a Covered Person⁵⁷ from contriving the result of a match or part of it regardless of whether any benefit is offered or sought or of whether it is done for betting or other corrupt purpose**
388. The TIU currently interprets the rule⁵⁸ against contriving *“the outcome or any other aspect of an event”* to apply only where there is proof that the contrivance was committed in exchange for a promised benefit or for betting or other corrupt purposes. As a result, the TIU generally does not pursue suspect matches based solely on betting data unless it can tie the match to a potential financial or other reward, such as by linking bettors or payments to one or more of the players. Expressly providing that the TACP prohibits contriving the result of a match or part of it for reasons unrelated to benefit, betting, or other corrupt purposes would preclude any argument that such an element must be proved to make out an offence. This will enable the TIU to pursue, and prove, contrivance offences even when it is unable to find an often-concealed, corrupt link that explains suspicious betting or play.⁵⁹ Moreover, whether or not a benefit, betting, or other corrupt link is involved, deliberately contriving the result of a match is inimical to integrity, and it should be made clear that it is always an offence.
389. This recommendation should also deter players from engaging in what some regard as *“benign”* underperformance, which sows the *“seeds of corruption”*⁶⁰ in the sport by promoting a culture that accepts tanking, which then in itself facilitates betting and match-fixing. Under the clarified rule, while strategic decisions within a match to conserve energy at a particular moment with the ultimate purpose of winning the match would not fall within the prohibition, making a prior decision or entering a match with the intent to lose it – even when the Player makes that decision for his or her own reasons unconnected with benefit or betting or other corrupt purpose – would fall within the prohibition.

⁵⁷ In this section, the terms *“Covered Person”*, *“Player”*, *“Related Person”*, and *“Tournament Support Personnel”* have the same definitions as provided in the TACP (2018).

⁵⁸ TACP (2018), D1.d.

⁵⁹ CAS 2017/A/5173 *Joseph Odartey Lamptey v. FIFA* (concluding that anti-contrivance rule in FIFA Disciplinary Code does not require proof of a corrupt link, even though it only reaches someone *“who conspires to influence the result of a match in a manner contrary to sporting ethics”*, in part because match-fixing endangers the integrity of the sport *“irrespective of the existence of a plurality of people involved in a ‘conspiracy’”*).

⁶⁰ 2005 Ings Report paragraphs 186-96.

390. The Panel recognises a significant difference in culpability between someone who contrives the results of a match for benefit or betting or other corrupt purpose and someone who contrives the results of a match for his or her own reasons, such as due to burn out. Accordingly, the TACP should include an aggravated offence of contriving the result of a match or part of it for benefit, betting, or other corrupt purposes as well as a lesser offence, subject to a lesser sanction, for circumstances where only the contrivance is proved. The same difference in culpability distinguishes someone who offers to fix a match for betting or other corrupt purposes, or solicits another to fix a match or influence a player's best efforts for betting or other corrupt purposes, versus someone who does the same but for personal reasons. There should be an aggravated offence where it is established that a benefit was offered or sought or that the actions were for betting or other corrupt purposes, as well as a lesser offence only requiring proof of the offer or solicitation to influence the player's best efforts.
391. On consultation, Smith Hulsey & Busey noted in relation to the Panel's proposal of two offences that *"the same result could be obtained by maintaining the single anti-contrivance offense and listing a corruption motivation as being an aggravating circumstance justifying a harsher sanction"*, but also acknowledged that *"it may be better to have two separate offenses with separate maximum penalties if the rules are also amended to provide for alternative methods of dealing with less significant offenses"*. While the precise form of the provisions is a matter for the new SB and TIU once in place, and while the essential consideration is that the two different factual situations should be treated differently, the Panel considers that the simpler and clearer course would be to have two different offences.
- (b) Playing while incapable: the TACP should prohibit a Player from entering a match when he or she knows or should reasonably have known that he or she is physically incapable of competing in that match**
392. Entering a match while incapable of competing due to physical injury is a specific circumstance in which the player has made a prior decision to enter a match with the intent to lose. Although this type of conduct may be covered in some circumstances by the anti-contrivance rule described above, the extent of the concern that players enter matches while physically incapable of competing, especially at the highest levels where the prize money for losing can be significant, warrants a separate offence to prohibit such misconduct clearly and unequivocally. In addition, players can use claimed injuries to attempt to conceal other integrity offences; when confronted with suspicious betting alerts suggesting a match was contrived, a player can respond that his or her poor play was due to a pre-existing injury and that the suspicious betting could have resulted from a bettor obtaining information about the injury that was not factored into the betting odds. It may often be difficult to determine whether a player has entered a match knowing that they are too physically unfit to play, but that should not discourage the creation of a rule that would allow appropriate punishment for, and deter players from engaging in, such misconduct.
393. On consultation, Smith Hulsey & Busey acknowledged that such an offence may have a deterrent effect, but expressed concern that it may be difficult to prove and that its seriousness may not warrant time consuming and costly disciplinary proceedings. The Panel agrees that such a rule will have a deterrent effect and considers that the TIU's prosecutorial discretion should be exercised to ensure that only appropriate cases are pursued.

- (c) **Disclosure of inside information: the TACP should prohibit a Covered Person from providing inside information to any person when the Covered Person knew or reasonably should have known that the information might be used for betting purposes, and it appears to have been so used, regardless of whether the Covered Person provided it for that purpose or obtained or sought any benefit in return for the inside information**

394. The TACP's current rules⁶¹ against disclosure of inside information, which prohibit only the provision of inside information in return for money or other benefit, are too narrow. Betting based on inside information harms the integrity of tennis even when it is not possible to prove a corrupt inducement. Accordingly, in addition to prohibiting any Covered Person from using, providing, seeking, or obtaining inside information for betting purposes, the TACP should also prohibit the provision of inside information by a Covered Person who knew or reasonably should have known that it might be used for betting purposes, and it appears to have been so used, regardless of whether the Covered Person provided it for that purpose or obtained or sought any benefit in return for the inside information. Expanding the prohibition against disclosing inside information should facilitate increased investigation and enforcement, deterring improper disclosure of inside information.
395. Of course, this expansion should not prohibit or discourage the reasonable sharing of information to coaches, physicians, doubles partners, and other trusted persons within the player's inner circle; in the ordinary course, such individuals should not, and would not, exploit inside information for betting purposes or breach their own obligations under the TACP. And, absent unusual circumstances, there would not be any reason for a Covered Person to expect such misuse of information.
396. As with the anti-contrivance rule, the culpability of an improper disclosure of inside information is a matter of degree – those disclosing inside information for financial gain or betting or other corrupt purposes are far more culpable, and should be subject to a commensurately greater sanction, than those who inappropriately supply inside information for no financial gain.
397. On consultation, Smith Hulsey & Busey expressed concern that it may be difficult to know when someone is to be regarded as a *"trusted person"*. However the Panel's recommendation is that there be a prohibition on the provision of inside information to any person when the provider knew or reasonably should have known that the information might be used for betting purposes, and it appears to have been so used. The test proposed is based solely on the degree of knowledge, and it is not proposed that there be an exception in relation to the provision of information to *"coaches, physicians, doubles partners, and other trusted persons"*. The evidence heard by the Panel on this Review suggests that the provision of information to such persons has in the past been used improperly for betting purposes, and the Panel considers that players must take appropriate care as to whom information is provided in all cases.

- (d) **Improper provision of accreditation: the TACP should prohibit a Covered Person from providing an accreditation when the Covered Person knew or reasonably should have known that it might be used to facilitate betting or an integrity offence, and it appears to have been so used, regardless of whether the Covered Person provided it for that purpose or obtained or sought any benefit in return for the accreditation**

398. On its face, the TACP⁶² prohibits soliciting or accepting a benefit for the provision of an accreditation when the accreditation was obtained for the purpose of facilitating an integrity offence or when it leads to the commission of an offence. It does not expressly prohibit providing an accreditation

⁶¹ TACP (2018), D.1.h, i, j.

⁶² TACP (2018), D.1.c.

for the purpose of facilitating an integrity offence if no benefit was solicited or accepted. Nor does it prohibit a Covered Person from offering a benefit for an accreditation to facilitate betting or an integrity offence. These deficiencies should be remedied. Again, there may be different degrees of culpability: one offence should prohibit offering, providing, seeking, or obtaining an accreditation for a benefit, betting, or other corrupt purposes, while a lesser offence should prohibit providing an accreditation when the Covered Person knew or reasonably should have known that it might be used to facilitate betting or an integrity offence, and it appears to have been so used, regardless of whether the Covered Person provided it for that purpose or obtained or sought any benefit in return for the accreditation.

399. In addition, the TACP should prohibit Players from making misrepresentations to seek or obtain registration or accreditation on behalf of any person that allows access to areas such person would not otherwise be permitted to access. For example, it should be an offence to seek accreditation for an individual to a players' only area, such as by falsely certifying that an individual was the player's coach.

(e) Other prohibitions: the TACP should prohibit:

- **delaying or manipulating entry of scoring data to facilitate betting or any integrity offence, as well as offers or requests to engage in such misconduct;**
- **selling, purchasing, or offering live scoring data obtained through scraping or scouting; and**
- **selling, purchasing, or offering to sell or purchase wildcards and other competitive benefits.**

400. The TACP presently lacks clear rules prohibiting event officials from delaying or manipulating the entry of live scoring data and prohibiting event personnel from selling wildcards and other competitive benefits. While such misconduct may be covered by one or more TACP rule depending on the circumstances, because such conduct has been the subject of multiple investigations by the TIU since 2009, clearer specific rules are warranted.

401. Moreover, the TACP presently lacks clear rules prohibiting Covered Persons from selling, purchasing, or offering live scoring data obtained through scraping or scouting. That gap should be filled.

402. In supporting the recommendation, Smith Hulsey & Busey note that – in order for it to be effective – *“Officials should be required to affirmatively consent to the TACP in advance of officiating any professional tennis match”*. The Panel agrees, and considers that this should be done through the recommended registration process and the contractual arrangements with officials.

(f) Reporting obligations: the TACP should impose:

- **an obligation to report any knowledge or suspicion that a Covered Person may have breached, attempted to breach, or been approached about breaching the TACP;**
- **an obligation to report any knowledge or suspicion that a Covered Person is about to breach or attempt to breach the TACP; and**
- **a prohibition against any efforts to dissuade or prevent any person from reporting to the TIU.**

403. The current reporting obligations are unduly complicated and narrow.⁶³ First, the obligation to report an approach to fix a match or obtain inside information only arises if the approach involves an offered benefit. The obligation should exist regardless of whether a benefit has been offered because the vice arises with the attempted contrivance.

⁶³ TACP (2018) D.2.a, b, c.

404. *Second*, the TACP currently requires reporting only when a Covered Person knows or suspects that another Covered Person *has* committed a corruption offence, which may be taken by some as excusing a failure to report whenever the Covered Person has any doubt as to whether an offence was committed. Especially in light of evidence that the existing tennis culture discourages reporting, the reporting obligation should be strengthened and widened. The obligation should be to report knowledge or suspicion that an offence *may* have been committed. There should also be an obligation to report if an offence is *about to be* committed, since prompt reporting increases the TIU's options and prospects of detecting wrongdoing.
405. In addition, the existing TACP does not expressly prohibit a Covered Person from attempting to dissuade or prevent other persons from complying with their reporting obligations. This gap should also be filled.
406. *Finally*, even with these recommended changes to the TACP's reporting obligations, the TIU needs an effective mechanism of last resort for obtaining information about suspected integrity offences, even if no report is made. This should take the form of an easily accessible and secure method of reporting information anonymously to the TIU.
407. On consultation, Smith Hulse & Busey agreed that the reporting obligations should be expanded, but noted their concern that it may be difficult to prove breach on the grounds of "*suspicion*" that a person is "*about to breach or attempt to breach*". While that may or may not be the position in any given case, the Panel considers that the provision will encourage reporting, and further that the TIU can use its prosecutorial discretion to ensure that only appropriate cases are pursued.
- (g) **Cooperation, assistance, and preservation obligations: the TACP should:**
- **continue its recently amended rule to permit the TIU to require the immediate production of information and things, including communication devices, from Covered Persons;**
 - **expressly permit the TIU to request an immediate on-site initial interview of any Covered Person;**
 - **allow the fact that a Covered Person declined an immediate interview to be referenced in further proceedings, and require the Covered Person to answer questions fully and honestly at a later interview, and**
 - **require all Covered Persons to preserve relevant evidence.**
408. Among the most powerful tools that the TACP grants the TIU, and that the TIU uses in nearly every significant case it investigates, are the powers to interview and request information from Covered Persons. Until this year, however, the rules allowed for a procedural delay between the TIU's requests for information and the Covered Persons' compliance with such requests. For example, if the TIU made a request for information, including the provision of communication devices, by a written demand under the TACP, the request was subject to a seven-day compliance period. During the course of this Review, the TACP has been amended to now require Covered Persons to furnish "*any object or information*" regarding an alleged corruption offence to the TIU "*immediately, where practical to do so, or within such other time as may be set by the TIU*"⁶⁴. In the Panel's view, this is a positive development, and this new rule requiring immediate production of information and things relevant to TIU investigations should be continued.

64 TACP (2018), F.2.c.

409. In addition to its present powers, the TIU should have the express authority to request immediate initial interviews of Covered Persons. The TIU's need for immediate information and to prevent the potential loss of important evidence in safeguarding the integrity of tennis justify imposing such obligations on Covered Persons. Moreover, sufficient safeguards for the interests of Covered Persons could be built into the process. For example, though it diminishes the effectiveness of the process, the TACP could provide that a Covered Person should have the option of declining to answer questions at an initial interview, whereas at a full interview they would be required to answer fully and honestly. The fact that a Covered Person declined to answer questions at an initial interview could be referenced in any future proceedings.
410. On consultation, Smith Hulsey & Busey noted that the Panel had (in Chapter 14 of the REA) suggested that when a communication device was requested and provided immediately, the TIU should not be capable of examining its contents without the Covered Person's later consent or a direction from a hearing officer. Smith Hulsey & Busey expressed the view that this extra step was not necessary under the current governing law of the TACP, and might slow down investigations. The Panel can see the force of that concern, but its view remains that the inclusion of this safeguard appropriately balances privacy concerns against the need to preserve evidence, and also makes stronger the inference that could be drawn from a refusal to hand over a device. In addition, it seems to the Panel that a direction from the hearing officer could, and should, be expedited.
411. Smith Hulsey & Busey also noted that presently the TIU's powers to investigate and to demand information are confined to where the TIU "*believes that a Corruption Offense may have been committed*" and that the recommendation appears to go further. In the Panel's view, the ability of the TIU to investigate should not be limited by any need to have satisfied any standard before commencement. In practice, however, it is difficult to see in what circumstances an investigation would be launched or information demanded when the TIU did not consider that there may have been a breach.
412. Further, although the TACP currently prohibits a Covered Person from tampering with or destroying evidence, there is no affirmative obligation to preserve evidence. The TACP should impose such an affirmative obligation on Covered Persons. These obligations should arise when the Covered Person becomes aware or should reasonably anticipate that the evidence may be relevant to a TACP offence.
413. Finally, in addition to establishing a separate disciplinary offence, a Covered Person's failure to comply with these cooperation obligations should permit an adverse factual inference in any related disciplinary charges.
- (h) Inchoate offences: the TACP should include "attempt", "incitement", "solicitation", "facilitation", and "conspiracy" offences**
414. Current coverage in the TACP for inchoate offences is incomplete. To provide more comprehensive coverage for misconduct that threatens the integrity of tennis, the TACP should be revised to include separate, general inchoate offences. Smith Hulsey & Busey suggested the inclusion of solicitation, and the Panel agrees.

(i) Vicarious liability: the TACP should impose vicarious liability on a Player for an offence committed by a Related Person of the Player if the Player knew or reasonably should have known, but did not report, that the Related Person might commit that offence

415. This recommendation expands the scope of the vicarious liability rule, which presently holds Players liable for the conduct of Related Persons only in circumstances where a Player has committed a separate offence in his or her own right.⁶⁵ Expanding this rule should encourage Players to exercise greater caution in their selection and interactions with their Related Persons. It should also more effectively deter Related Persons from committing integrity offences, as their misconduct would jeopardise the professional standing, finances, and reputation of the related Player.
416. On consultation, Smith Hulsey & Busey noted that the test proposed for vicarious liability for a Related Person's offence is whether the Player knew or reasonably should have known that a Related Person might commit the offence, rather than knew of the offence. In connection with this standard, Smith Hulsey & Busey raised the question whether such a test *"would survive a due process challenge for severe career ending penalties"* and whether *"players would perceive this change as unfair or unduly prejudicial to individual player rights"*.
417. In the Panel's view, the introduction of the test is necessary and proportionate in order to have a significant effect on the activities of Related Persons that damage integrity. Absent consequences for players, and absent a test that does not involve proof of an offence by the relevant player or actual knowledge of the Related Person's offence, vicarious liability in this context does not provide any meaningful additional protection for tennis integrity. Players must understand that they need to be cautious in their selection of and communications with Related Persons, and they must take steps to ensure that Related Persons understand the obligations upon them. The Panel also considers that players have sufficient and appropriate protection because vicarious liability will not attach if it is not the case that the relevant player ought to have known that the offence might take place. Further, the sanction that is to be imposed must always be proportionate to the circumstances.
418. The Panel agrees with Smith Hulsey & Busey's further suggestion that express provision should be made in the TACP for joint disciplinary proceedings in appropriate circumstances.

(j) Joint and several liability: the TACP should impose joint and several liability on a Player for fines and other financial penalties incurred by his or her Related Persons

419. Under the current system, the TIU is often unable to recover financial sanctions from Related Persons who are not contractually bound to the TACP. This recommendation, like that for the expansion of the vicarious liability rule, should encourage Players to take increased responsibility for the Related Persons with whom they associate.
420. On consultation, Smith Hulsey & Busey raised a similar point to that raised in relation to vicarious liability, namely that the fact that joint and several liability arises without proof of knowledge of the offence could raise fairness concerns. Smith Hulsey & Busey further disagreed that it would be appropriate for a player to be held personally liable for a fine incurred by his or her Related Persons absent any knowledge of the relevant misconduct.

⁶⁵ TACP (2018), E.1.

421. The Panel considers that it is necessary and proportionate that fines and financial penalties should be recoverable in this way, even absent actual or constructive knowledge, in order to have a significant effect on the activities of Related Persons that damage integrity. While Related Persons might avoid the financial consequences of breach on the basis that they are not covered by the TACP, and so defeat the prohibition breached, a player cannot. It is only if the Related Person does not pay that the player can be required to do so, and the player can then extract recompense from the Related Person. Importantly, this recommendation is confined to fines and financial penalties. And again, protection is provided by the TIU's discretion as to which remedies it seeks.

(2) Recommendation 9: The TIU's investigative processes should be improved in several respects, to facilitate proactive investigations and to address the TIU's current backlog

(a) Betting alerts: with a betting expert on staff, the TIU should standardise the process for collecting betting data, collect all reasonably available betting data concerning the alert, and use betting alert data to inform investigations

422. As set out in Section VII.A(3), since its inception, the TIU has not, in the Panel's view, made sufficient use of betting data to focus its investigations. Betting data can, at times, be sufficiently distinctive and compelling to make out a corruption offence (for example, when repeated, unusual betting patterns clearly reveal spot-fixes), and they can certainly prove when a match has been contrived, even absent proof of a corrupt link. With the engagement of a betting expert and an expanded construction of the TACP's anti-contrivance rule, the TIU should make more use of betting alert data, with the other information it collects, to develop proactive, targeted investigations. In addition, the TIU should, in consultation with the International Governing Bodies and in connection with their data sales agreements, develop standard protocols governing what information betting operators are expected to provide upon a request from the TIU for betting information. The TIU needs a more consistent approach to collecting, and following up on betting data regarding promising alerts, including from betting operators in addition to the source of the alert. On consultation, the TIU agreed with this recommendation in principle.

(b) TIU's investigative protocols: the TIU should develop standard processes to direct the collection, classification, storage, and access of information

423. In part because the TIU lacks standard processes for conducting its investigations, its processes have been inconsistent. While the needs of an investigation may vary from case to case, standard protocols concerning interactions with potential subjects and witnesses – for example, guidelines on the inquiries and records that should be sought when information has been received from match or event officials; the manner in which investigators should download, store, and analyse information from communication devices; and how investigators should handle failures to cooperate – could help direct investigations. Similarly, protocols for the storage and analysis of intelligence could better ensure that information is appropriately logged and effectively used. Additional standards for when information should be stored for intelligence purposes or used to open an investigative case, and then for when investigative cases support initiating disciplinary proceedings or justify closing the matter, could also help guide appropriate investigative decisions. The TIU should have a regular process for reviewing the status of open cases to determine whether remaining investigative steps warrant greater priority and expeditious completion.

(c) Match footage: with access to a tennis expert, the TIU should make greater use of match footage to inform its investigations and interviews

424. The TIU should make greater use of match footage to identify peculiarities in players' performances which, when evaluated in connection with betting data and other information, could be used to detect and prove corrupt conduct. Reviewing match footage with players during their interviews could also help investigators focus their questions to obtain more meaningful information. The recommended engagement of a tennis expert should allow the TIU to make regular use of match footage to advance its investigations.

(d) Backlog of investigations: the TIU should promptly clear its backlog of investigations

425. Due in part to resource deficiencies, the TIU has a considerable backlog of open investigative matters. Some of these matters may not require any further action, but those cases should be appropriately classified as such. Others may warrant significant development. For cases where further investigatory steps are required, the TIU needs to devise a strategy and engage the required staffing to promptly complete this task. The suggested changes to the disciplinary process should assist in the quicker disposal of some outstanding cases.

(e) TIU's information database: all existing data (including data pre-dating 2013) should be uploaded to the TIU's database

426. Data and information held by the TIU for the years before 2013 have not been uploaded to the TIU's intelligence database. Although they may be several years old, those data should be used to inform, at least, the development of future investigations. The TIU should promptly ensure that all of this information has been incorporated into its intelligence database, giving due consideration to any restrictions imposed by applicable laws, especially data protection laws.

(f) Use of intelligence: the TIU should effectively use intelligence to guide investigations and other initiatives, disrupt suspected breaches of integrity, and prioritise its allocation of resources

427. The TIU has a rich source of information available to it about potential sources of corruption in tennis. In addition to evidence from prior investigations and data from betting alerts, it has numerous reports from the tennis community about suspected breaches of integrity. The TIU should, as a matter of practice, more effectively use this intelligence to identify players, other persons, and events that present the greatest risks to tennis integrity and to focus its investigative work in those targeted areas. Improved use of its intelligence should also permit the TIU to more effectively prevent suspected wrongdoing, including through the deployment of disruption techniques and, where permissible, integrity testing.⁶⁶ A robust system for collecting and exploiting its available intelligence should greatly facilitate the TIU's efficient use and allocation of its resources.

⁶⁶ Section VIII C(3)(a) and (b), above.

(3) Recommendation 10: Disciplinary procedures under the TACP should be improved, to promote more effective integrity enforcement while safeguarding the rights of the accused

(a) Commencement of disciplinary proceedings: the TIU should have broad discretion whether to bring a charge, in light not only of whether the standard of a realistic prospect of success is met, but also of whether bringing a charge would best serve the overall goal of promoting the integrity of tennis

428. The standard that the TIU should apply in deciding whether to bring a charge is whether there exists a realistic prospect of proving that a breach of the TACP has been committed by a Covered Person. This is a lower standard than appears to have been applied by the TIU under the current TACP.

429. As summarised in Section VII.A, above, entrusting charging decisions to the PTIOs⁶⁷ creates apparent conflicts of interest. This apparent conflict, and any negative public perception that arises from it, should be eliminated. Placing charging authority in an independent TIU will increase the integrity of the disciplinary process. As an independent body, the TIU should be afforded broad prosecutorial discretion, subject to annual audit review and oversight by its SB. While the TIU should exercise that discretion to pursue serious offences when warranted by the evidence, where the offence is a less serious one, the TIU may consider that, given all the circumstances, bringing a charge would not best serve the overall goal of promoting the integrity of tennis.

430. The Panel agrees with the observation on consultation from Smith Hulsey & Busey that *"if the charging party is to be granted [prosecutorial] discretion, the charging party must enjoy a significant amount of independence"*. The Panel considers that the arrangements recommended in relation to the new SB and TIU afford that independence and enable the new TIU to exercise prosecutorial discretion appropriately.

(b) Streamlined disciplinary procedures: the TACP's disciplinary procedures should allow for more timely and cost-effective adjudications, especially for more minor offences

431. The TACP's current system for adjudicating disciplinary matters is unnecessarily lengthy and costly, especially for more minor offences. Under the current system, after an AHO has decided a contested disciplinary proceeding, either party may appeal (*de novo*) to the Court of Arbitration for Sport ("CAS"). As a result, the same matter may be litigated twice, with full written and oral process at each level. This wastes resources, facilitates gamesmanship (as a Covered Person may hold back arguments and defences for appeal), creates difficulties in securing witness attendance for the second proceeding and, ultimately, may discourage prosecutions and jeopardise fair outcomes for the matters that are pursued. For more minor offences, the costs and time associated with such duplicative disciplinary proceedings may outweigh the benefits of pursuing a sanction.

432. In the Panel's view, the time, costs, and other burdens of TACP procedures should be addressed, while simultaneously ensuring that they are fair and impartial and afford due process to all Covered Persons. As part of this objective, the Panel presented two potential solutions for consultation in the Interim Report. In the light of the submissions regarding these two potential solutions received on consultation, the Panel considers that the final determination of the approach to be adopted must lie with the new SB and TIU in consultation with player representative bodies. In particular, they will have to decide together the balance to be struck between on the one hand the need to save costs and time, and on the other the apparent possible preference of, in particular, players for a two-stage procedure. Furthermore, this will enable discussions to take place with CAS as to the possibility of a revision of CAS practice, or with another arbitral institution, to allow for an appeal that is not *de novo*, from a first instance arbitral tribunal. In these circumstances the Panel below sets out its conclusions in relation to the two courses, subject to the final determination lying with the new SB and TIU, in consultation with player bodies.

⁶⁷ TACP (2018), F.2.e.

433. *A single-stage procedure before an independent and impartial arbitral tribunal, with no appeal.* The most straightforward solution would be to replace the two-stage process described above with a single-stage procedure, under which all disciplinary proceedings would be brought before a single independent and impartial arbitral tribunal. This would therefore involve eliminating the current appeal to CAS.
434. The arbitral tribunal would have to be selected for each matter by a process that ensured its independence from the TIU, the SB, and the International Governing Bodies. In selecting arbitrators the sport would make use of an established and suitable arbitral institution.
435. This single-stage procedure would resolve all disciplinary matters through arbitration subject only to mandatory supervision by the national court of its seat. To ensure the effectiveness of the disciplinary proceedings and to avoid national court intervention: (1) legal aid would be provided to Covered Persons in appropriate circumstances, as addressed below⁶⁸; and (2) systems would be established for interim measures to be directed before the arbitral tribunal is constituted, as addressed below⁶⁹.
436. In the Panel's view, for enforcement matters involving allegations of serious offences under the TACP, the arbitral panel should include three independent and impartial arbitrators appointed as set out in subsection (d) below. For more minor alleged offences, however, such as failing to comply with a reporting obligation or endorsing a betting operator, the Panel considers that speedy, cost-effective, and procedurally fair proceedings could be achieved with expedited procedures before a single independent and impartial arbitrator. For such proceedings, there would be a cap on the potential sanction that could be imposed, such as a limited period of suspension measured in weeks and a limited level of fine. Expedited procedures before a single arbitrator could also be employed for any matters in which both parties consent.
437. Eliminating the right of appeal in this way may be said to eliminate procedural protections, but the two-stage process currently in place arguably provides only illusory protections because either side can "*appeal*" the decision from the first instance proceeding to a second, *de novo* proceeding. The second stage thus replaces the first, rather than providing a second layer of protection. In the Panel's view, procedural fairness can be safeguarded so long as the first and single enforcement proceeding is held before an independent and impartial tribunal, and the system affords a fair and proportionate opportunity for a Covered Person to defend the charges, including with the provision of legal aid.
438. The Panel considers that all disciplinary proceedings could be streamlined in their processes, including by shortening the time before hearings and allowing parties, where appropriate, to present their evidence and witnesses by video link or telephone. For more minor matters heard by a single arbitrator, moreover, cases should presumptively be decided on the papers, but a hearing could take place if required.
439. As addressed in Chapter 14 Section D(3) of the REA, consideration should be given when drafting the new TACP, to what law (if any, as opposed to the relevant regulations and general principles of law) should govern matters of enforcement and interpretation, in the light of the decisions to be taken on other matters as well as such other factors as promoting legal certainty, a diversity of arbitrators, the ability of the accused to secure counsel, access to justice, as well as recognising the transnational nature of the sport.

⁶⁸ Paragraphs 472 to 474.

⁶⁹ Paragraphs 461 to 467.

440. *Alternatively, a two-stage procedure for all offences, preserving the appeal to CAS, or to another arbitral institution, but permitting expedited proceedings for less serious offences.* An alternative approach would preserve appeals to CAS, where legal aid and interim relief are already afforded in appropriate cases under the CAS rules, or to another arbitral institution, and provide for a single independent and impartial hearing officer or arbitrator in all first-instance proceedings. This approach should still allow for expedited proceedings (as described above), including decisions on the papers by default, for cases involving less serious charges.
441. In the Panel's view, while this alternative approach would improve on the current system, it would remain subject to the unnecessary duplication of process inherent in at least CAS appeals. If the two-stage process retaining an appeal to CAS is chosen, the changed system will need to be established in a way that ensures CAS's willingness to accept jurisdiction.
442. The Panel also considered the further alternative of a two-stage procedure for more serious cases and a single-stage procedure for less serious cases, or where agreed between the parties, but considers that it would be unlikely to achieve the intended benefits⁷⁰.
443. During the consultation period, in addition to receiving formal submissions in this context, the Panel was advised of a potential preference by players for preserving a right of appeal to CAS. In these circumstances it seems to the Panel that the ultimate determination of this issue should appropriately lie with the new SB and TIU, in consultation with player representative bodies, and following exploration with CAS or with another arbitral institution, of the possibility of an appeal that is not *de novo*.
444. In its consultation submissions, Smith Hulsey & Busey stated in relation to whether there should be a single-stage or two-stage procedure, that *"the current system is cumbersome and expensive, primarily because the Court of Arbitration for Sport conducts a de novo trial regardless of the formality of the first instance proceedings and regardless of what the governing bodies' rules might state with respect to grounds for any appeal"* and that *"a single-stage arbitration [is recommended] with narrow grounds for judicial review (as codified in the Florida Arbitration Code)", as opposed to "a single-stage procedure that completely eliminates the availability of an appeal [which] would actually open the door for more judicial review than is available under the current and former iterations of the TACP"*. Such narrow grounds for review are likely to be those that apply to supervisory appeals from arbitrations to the courts of the seat of the arbitration, some of which are mandatory and always apply. Indeed, they apply at present as a theoretical third stage appeal from CAS to the Swiss Federal Tribunal, and they would certainly apply to the Panel's single-stage procedure as a matter of arbitration law. These grounds are very limited and do not generally permit a substantive review of the merits of a dispute. Accordingly, Smith Hulsey & Busey's proposal may not differ significantly from the Panel's single-stage procedure.

⁷⁰ The only cases that would definitely fall under the summary procedure would be less serious ones carrying lesser sanctions, which would be less likely to be appealed in any event. Such cases would be more effectively dealt with through expedited proceedings, or through the alternative dispositions addressed in the next sub-section. It is unclear how often it would be agreed between the parties that a more serious case should be dealt with in a summary procedure, and the choice might be regarded as an invidious one. Further, such agreements might be regarded as allowing more serious cases inappropriately to be dealt with under a procedure that involved lesser sanctions.

445. Others favoured a single-stage procedure with no appeal. Delos⁷¹ stated that “a single-stage process is likelier to achieve the objectives of streamlining the determination of disciplinary (and other integrity and/or doping) matters, while preserving fairness and due process”. Captivate⁷² stated that “of the two options put forward to reform of the TIU’s disciplinary procedures, in principle we support the first option: a single stage procedure before an independent and impartial arbitral tribunal, with no appeal. However, we would modify the IRP’s proposals by making the CAS the tribunal of first instance. The reason for this, despite the shortcomings of the CAS, is that given the truly global nature of the sport of tennis, we do not currently know of a suitable arbitral institution which has the desirable global reach and expertise other than the CAS. Importantly, the right to appeal, in very limited circumstances, would be retained due to the supervisory jurisdiction of the Swiss Federal Tribunal (SFT) over the CAS”. It is, however, far from clear that CAS can operate as a single first instance tribunal, as opposed to offering a two-stage process, and CAS does not currently provide the level of hearing officer engagement before the hearing that the TACP requires.
446. Sport Resolutions⁷³ did not express a preference for either a single-stage or two-stage procedure. However, Sport Resolutions stated that: “If a one stage approach is favoured, it is crucial that the panel contains the required skills and experience and is one that has been positively approved by the parties. To that end, Sport Resolutions will always nominate a panel (as opposed to appoint) to enable the parties to reflect and give informed consent. It would be recommended that provision should be made for the process of objecting. To avoid frivolous objection, this may be restricted to where there is a doubt about impartiality or bias. If a two-stage approach is adopted then it may be prudent for appeals to take the form of a review. This would then avoid the current situation of an appeal being a re-hearing of the evidence on a de-novo basis. Either way, if the panel is expert and agreed by the parties, one would hope that the first instance decision would be sound and less likely to generate an appeal”.
447. In relation to the hearing process, Smith Hulsey & Busey stated that “given the serious nature of the allegations and the potential penalties, we do not believe that the process can be substantially expedited while still providing a fair and impartial proceeding”. They also stated that they “...disagree that cases being resolved by a single arbitrator should be decided on the papers without a hearing. There are issues related to credibility (given most players’ denial of the charges) that are more difficult to resolve without an opportunity for cross-examination”. They did not consider that the TIU should be obliged to file its brief before receiving documents from the respondent. Martens⁷⁴ stated that “...it is of the utmost importance to give the arbitrator the flexibility not to make use of such tools whenever she/he deems it appropriate, e.g., to hold a hearing in person, to solicit further written submissions, or to hear witnesses in person”. And Captivate suggested that “...a change to the standard of proof in the TACP to comfortable satisfaction. This would strike the appropriate balance between the sport securing sufficient convictions on the evidence, whilst giving the accused the proper chance to present their defence given the cataclysmic effect a proven verdict and subsequent sanction will often have on their career”.

⁷¹ Delos Dispute Resolution (“Delos”) is an independent international arbitration institution.

⁷² Captivate Legal and Sports Solutions (“Captivate”), is a legal consultancy with experience in the field, particularly representing athletes before the CAS.

⁷³ Sport Resolutions is a specialist not-for-profit dispute resolution service with a stated aim of being “the dispute resolution service of choice for everyone engaged in sport”.

⁷⁴ Martens Rechtsanwälte (“Martens”), is a law firm with experience in the field based on their involvement in the creation and administration of the Basketball Arbitral Tribunal (“BAT”), which is the second largest sports arbitral institution in the world.

448. Regardless of the procedure chosen, the Panel remains of the view that in more minor cases expedition, and hearings on the papers where appropriate and agreed to by both parties, would be possible while preserving procedural fairness. The Panel considers that the TIU's power to demand information should ensure that it has such documents as it needs before filing its brief, and that it should in any event be able to apply to the hearing officer. The Panel agrees that the hearing officer or arbitrator should have the discretion to ensure that particular proceedings take the form that he or she views as appropriate to ensure a fair procedure. But the Panel disagrees with the proposition that the standard of proof should be elevated to comfortable satisfaction; the balance of the probabilities standard affords procedural fairness in a noncriminal context such as this.
449. The Panel notes that, in choosing and defining the applicable procedure, the new SB and TIU should act on legal advice, including so as to ensure that all the applicable requirements of procedural fairness are satisfied.
450. As to choice of law, Smith Hulsey & and Busey stated that *"the current rules provide Florida law governs, including the Florida law regarding arbitrability of disputes. We believe that choice provides numerous benefits to the governing bodies, including (i) narrow grounds for judicial review, (i) private associations govern themselves without court interference, (ii) strict filing deadlines for challenging arbitration decisions, (iv) a statutory basis for provisional remedies in arbitration cases and (v) privacy rights of individuals are far less protected compared to other jurisdictions (e.g., the EU's GDPR). Additionally, there has been almost a decade of first instance and CAS decisions looking to the rules and Florida law and deciding issues such as the standard of proof favourably to the governing bodies. We believe the choice of any law other than Florida runs a significant risk of reopening those currently settled issues. In any event, we disagree with the Panel's suggestion that the rules might adopt 'general principles of law'. Our understanding of the choice of law is to provide some degree of certainty in determining issues not expressly covered by the rules. We do not believe that 'general principles of law' would provide certainty and we have never seen a set of rules (or other document) providing for such a choice of law"*.
451. Martens noted that *"the crucial document in BAT proceedings is the relevant contract(s), and arbitrators deciding ex aequo et bono will only deviate from the contract(s) in very exceptional circumstances (see also Article 28(4) of the UNCITRAL Model Law on International Commercial Arbitration, whereby deciding ex aequo et bono does not free the arbitral tribunal from deciding in accordance with the terms of the contract). In other words, pacta sunt servanda will prevail absent exceptional circumstances, which makes the outcome quite predictable for the parties"*. By analogy, in tennis, *"...the crucial document is the TACP (or any other regulation that may be enacted in the future, following the [Panel's] final report). Its provisions will therefore provide a very significant degree of clarity and predictability, no matter what the applicable law is"*. Martens also noted that *"applying a particular national law can even result in less predictability, at least for one party: various national laws provide for very different reasons to invalidate a contract, sometimes on purely formal grounds or based on rules serving abstract notions of fairness that might lead to not-so-fair results in the case at hand. When parties from different jurisdictions have a dispute that is governed by a particular national law, the applicable law will either be that of one of the parties, or the law of a neutral third country. As a result, the applicable law and its idiosyncrasies will be unknown at least to one party, often even to both parties"*. Martens also suggested that applying the regulations and general principles of law, and in that sense deciding matters *ex aequo et bono*, would allow *"for a diverse pool of arbitrators"* (together with other perceived benefits including neutrality, allowing for counsel from different jurisdictions and efficiency).
452. Delos stated that *"...rather than an applicable law, consideration be given to deciding cases ex aequo et bono, i.e., on the basis of general considerations of justice and fairness, without reference to any particular national or international law. This approach has successfully been applied by the Basketball Arbitral Tribunal for over a decade and would be particularly well-suited for developing a consistent body of decisions and sanctioning practices. It would also support the development of a larger pool of suitably independent and qualified arbitrators, and facilitate Concerned Persons' appointment of counsel of their choice/trust"*.

453. CIAR⁷⁵ stated that choice of a particular law constrained parties in their choice of counsel, but that if “... *general principles of law are applied to resolve the dispute under the TACP, such a constraint would not exist because the range of possible counsels will be significantly increased*”. CIAR also observed that designating English or Florida law might either: (1) result in a *de facto* denial of access to justice to Covered Persons who cannot afford an English or Florida qualified lawyer; or, (2) “*be tantamount to providing legal aid to almost all Covered Persons*” (in other words, that significant numbers of Covered Persons would need to receive legal aid to afford a suitably qualified lawyer). On the topic of legal costs Martens observed that “*if the adjudicatory body were to apply general principles of law (or decide ex aequo et bono), this might save significant amounts of legal costs, and thus reduce the burden on the legal aid system*” because “*parties would have greater freedom to choose the more inexpensive counsel from their respective home jurisdiction*”. Conversely, “*if the applicable law were to remain Florida law, athletes would need to consider retaining US counsel, which would usually result in much higher costs than retaining counsel from most players’ home jurisdictions. The same of course holds true if the applicable law were the law of any other country in which legal services are rather expensive*”.
454. The Panel’s view remains that choice of law is a matter for the new SB and TIU to decide, in consultation with all of the interested parties, taking into account the considerations set out above.⁷⁶
- (c) Alternative Dispositions: the TIU should be able to enter into plea and cooperation agreements with Covered Persons, and it should be able to give official reprimands and warnings to Covered Persons**
455. Plea agreements can allow for quick and efficient resolution of disciplinary charges, and cooperation agreements are an important tool for investigators to pursue serious charges against more culpable offenders. The TIU should be able to negotiate such agreements with Covered Persons, subject to oversight by the SB and review by an arbitral tribunal hearing officer.
456. While not expressly authorised under the TACP, the PTIOs have, at times, issued unofficial reprimands and warnings to Covered Persons for minor offences, rather than pursuing sanctions to the greatest extent permitted by the TACP. Such admonitions allow for the quick correction of inadvertent or minor misconduct without undue TIU expense. This practice should be carried forward but, consistent with the reallocation of prosecutorial discretion, the TIU be authorised to issue reprimands and warnings, without the need for a disciplinary proceeding, where (a) the Covered Person has accepted the official reprimand and warning in writing; and (b) the TIU concludes that the use of an official reprimand and warning, in lieu of charges, serves the best interests of safeguarding the integrity of tennis under all the circumstances of the case. Once reprimands and warnings have been accepted by Covered Persons, they should be official and public, for educational and deterrence purposes. Prior reprimands and warnings could be considered at the sentencing stage in subsequent proceedings involving the Covered Person.
457. On consultation, Smith Hulsey & Busey stated that they “...*disagree with the Panel’s suggestion...that an informal warning should require the consent or acceptance of the Covered Person. We see no reason to require the Covered Person’s consent where the action contemplated is an informal warning.*” Smith Hulsey & Busey further stated that they “...*agree with the [Panel’s suggestion] regarding public reprimands and warnings, but given the lack of a hearing or hearing officer involvement, the publication of a reprimand or warning may result in legal action against the TIU or others for defamation or other reputational damage.*”

⁷⁵ The Centro Iberoamericano de Arbitraje (“CIAR”) is an international arbitration institution with a presence in Latin America, Spain, and Portugal.

⁷⁶ Paragraph 439 above.

458. In the Panel's view, where the Covered Person has consented to a warning or reprimand, there should be no risk of legal proceedings by that Covered Person. As a result, the requirement of consent – rather than being superfluous – resolves the potential concern about defamation and other similar claims.
- (d) Hearing officers or arbitrators: TACP disciplinary matters should be adjudicated by impartial individuals who are independent of the sport and who are drawn from an internationally diverse pool, with the possibility where appropriate of appointment from outside the pool**
459. To ensure that all disciplinary proceedings are decided by a cost-effective process that is, and can clearly be seen as, fair and impartial, hearing officers or arbitrators should be selected for each matter through a process that ensures their independence from the TIU, its SB, and the International Governing Bodies. It seems to the Panel that hearing officers or arbitrators could be drawn from a pool of qualified and independent hearing officers, from various parts of the world, and could be selected by one or more well-regarded dispute resolution bodies, which could retain the possibility where appropriate of appointing from outside the pool. In relation to the required qualifications for hearing officers or arbitrators, the Panel envisages that they should be lawyers who satisfy the same independence test as members of the SB.
460. On consultation, Martens stated that *"...any new system would need to ensure that no party has a greater influence over the appointment of the arbitrator(s) than the other party", that "we fully subscribe to the [Panel's] view that the arbitrator(s) should be appointed to each case by the independent institution"*. The Panel agrees that there must be equality in the appointment of arbitrators, by their being appointed by an independent arbitral institution or by the parties to the arbitration proceedings.
- (e) Provisional or interim suspension from tennis: it should be more straightforward for the TIU to obtain a temporary suspension from tennis of a Covered Person suspected of committing an integrity offence pending disciplinary proceedings, or for failure to assist**
461. To prevent corrupt individuals from continuing to tarnish the integrity of tennis, the TACP should permit the TIU to seek a temporary, provisional suspension of Covered Persons based on satisfaction of two criteria: (1) that there exists a realistic prospect of success in proving that a Covered Person has breached the TACP – the same standard for issuing a charge; and (2) that, balancing the interests of the individual and the sport, it is appropriate that the Covered Person should not play or participate pending the outcome of the disciplinary proceedings or other event.
462. The TIU should be permitted to seek provisional suspensions through urgent applications without notice as well as through notice applications accompanied by written and oral submissions, evidence, and a hearing. At times, the TIU may have information that a Covered Person has violated the TACP, but it has not yet decided to initiate disciplinary proceedings, possibly because the TIU's broader investigation is continuing or because the initiation of proceedings could interfere with law enforcement. If a suspension is imposed without notice, the Covered Person should be able to seek to have it lifted, including the right to demand a normal *inter partes* hearing after submitting his own written submissions and evidence. At the same time, to protect Covered Persons against unwarranted and indefinite suspensions, provisional suspensions granted without notice should be limited in duration if substantive disciplinary proceedings are not commenced. Similarly, suspensions granted on notice should be limited in duration if substantive disciplinary proceedings are not commenced. A Covered Person should have the right to challenge a provisional suspension every 90 days, requiring the TIU to demonstrate that the provisional suspension remains justified and that the TIU is diligently pursuing the matter.
463. To facilitate the imposition of provisional suspensions while encouraging the TIU's cooperation with law enforcement, the fact of a pending criminal investigation or prosecution against a Covered Person for betting, match-fixing, or any other corruption offence should not only provide *prima facie* evidence to support a request for provisional suspension, but also should weigh heavily in favour of the Covered Person's provisional suspension. Pending criminal matters should be afforded greater weight if they have progressed to formal charges or, even more, a conviction.

464. Separately, the Panel welcomes the recent changes to the rules⁷⁷ in relation to the power to impose a provisional or interim suspension from tennis on the grounds that the Covered Person has failed to assist by refusing to comply with a TIU request for an interview, for information, or for a communications device. Such a suspension should last until the failure is rectified.
465. On consultation Smith Hulsey & Busey stated that they “disagree with the Panel’s suggestion that a provisional suspension may be sought based solely on a suspicious betting pattern or otherwise prior to obtaining sufficient evidence to bring charges against a Covered Person”, and that they “do not believe that imposing an extraordinary remedy in the form of a provisional suspension based upon such limited information would be appropriate and would likely subject the rules to further judicial scrutiny”. Smith Hulsey & Busey also stated that they “agree that any provisional suspension should be granted by an independent hearing officer. As to the standard for granting such a suspension, we are more comfortable with the current rule [(F.3.a.ii.)] given the extraordinary nature of a provisional suspension” and that “given the more aggressive posture the Panel recommends for the TIU as to the type of evidence that will justify prosecution, we believe that routinely seeking such provisional suspensions may not be appropriate”. Smith Hulsey & Busey further stated that “the Panel contemplates a significantly more complex system with the use of sentencing guidelines. Depending upon how the [International Governing Bodies] decide to address those issues, a modification of the provisional suspension standard may be appropriate”.
466. In the Panel’s view, the test that it proposes of (1) existence of a realistic prospect of success in proving that a Covered Person has breached the TACP and (2) a balancing of the interests of the individual and the sport concerning the proposed suspension, is the appropriate one. Whether or not a suspicious betting pattern alone is sufficient to satisfy this standard will depend on the individual circumstances of each case.
467. In relation to the Panel’s suggestion that the fact of pending criminal investigation or prosecution against a Covered Person should provide *prima facie* evidence of a likely TACP violation and should weigh heavily in favour of the Covered Person’s provisional suspension, Smith Hulsey & Busey state that they “take [this suggestion] as being guidance to the TIU, and as such have no objection. However, in our experience the quality of criminal investigations is highly variable. Thus, a blanket rule that the existence of a pending criminal investigation provides *prima facie* evidence of a violation is in our view not appropriate. Rather the TIU should consider the existence and quality of such an investigation in determining whether to seek a provisional suspension”. The Panel maintains its recommendation, but agrees that each case will turn on its own facts.
- (f) Removal of evidentiary limits for the full procedure: evidence obtained by the TIU after the initiation of disciplinary proceedings should be admissible**
468. AHOs have at times construed the TACP as limiting the use in disciplinary proceedings of evidence obtained after the initiation of those proceedings. This evidentiary limit should be eliminated, so long as the later-obtained evidence relates to an existing charge. Clarifying this rule should encourage the TIU to pursue disciplinary charges and provisional suspensions for serious misconduct that it can prove, without undue delay, even when the TIU expects that it can develop further evidence in support of those charges. On consultation, the TIU and Smith Hulsey & Busey supported this proposal.

⁷⁷ TACP (2018), F.3.a.i (Provisional Suspension).

(g) Close investigations after three years: absent good cause, the TIU should be required to close investigations within three years, with notification to the Covered Person being investigated

469. Covered Persons implicated by the TIU's investigations are not regularly informed of the progress of investigations involving them or when such investigations have been closed. While there should be no obligation on the TIU to notify individuals who are under investigation, to promote the progression and resolution of investigations, and in fairness to Covered Persons, a deadline should be imposed on the TIU to close cases and, when cases have been closed, to notify individuals who have previously been told that they are under investigation. A good cause exception should apply to this deadline (and should be disclosed in any such notification), allowing continued or reopened investigations where compelling circumstances warrant, including upon the discovery of new information warranting further investigation.
470. On consultation, the TIU stated that they *"believe this to be unnecessary and potentially in conflict with the current Statute of Limitations, which is set at 8 years. In addition, the involvement of law enforcement agencies in tennis corruption cases can often extend the length of TIU investigations and prosecutions"*. Smith Hulse & Busey stated that they *"question the meaning of a "closed investigation" and that "if the TIU obtains additional evidence after the three years (but within the statute of limitations provided by the rules) the TIU would have the right and obligation to reopen and continue the investigation. Covered Persons who are under investigation may be less likely to commit corruption offenses knowing they are the subjects of such an ongoing investigation. Such a deterrent may be lost if those individuals are advised that the TIU has closed the investigation"*.
471. In the Panel's view, adequate protection is afforded by the ability of the TIU to continue or reopen investigations in appropriate circumstances, and by the fact that if a person has not been notified of an investigation, there is no obligation to communicate the fact that it has been closed. Further, the closing of an investigation should not preclude subsequent reliance on events previously investigated if a new case arises.

(h) Legal aid: legal aid should be provided to Covered Persons in appropriate circumstances

472. With an appeal to CAS in place, legal aid is available to Covered Persons under the CAS system, and that is sufficient under a two-stage procedure. If the CAS appeal is removed and replaced with a single-stage procedure, however, legal aid should be available under it, following a system equivalent to that of CAS. In the view of the Panel, legal aid should be funded by the International Governing Bodies and not by the TIU itself.
473. On consultation, Smith Hulse & Busey stated that *"the lack of legal aid at the first instance hearing under the current rules does not present a legal issue under Florida law"*. Martens stated *"the rules on legal aid in tennis should provide for increased transparency in the sense that they need to fully reflect the practice of granting legal aid"*. Delos stated that *"the provision of legal aid should be complemented with a pro bono representation scheme"*. And Captivate proposed *"a system whereby the lawyers on a legal aid panel for tennis are paid both a fee (potentially fixed per case) and their expenses out of a cross-stakeholder fund paid into by each of the International Governing Bodies..."*.
474. In the Panel's view, the requirement for legal aid is a function of the fact that absent legal aid, a respondent who could not afford a lawyer might seek to challenge the arbitration agreement in state courts as unfair. Taking into account the considerations set out above amongst others, this risk should inform the decision of the new SB and TIU when deciding which disciplinary procedure to adopt, in consultation with all interested parties, including the player representative bodies.

- (i) **Sanctioning guidelines: hearing officers should be afforded broad discretion to set sanctions pursuant to sanctioning guidelines, but they should also be required to include in their findings the reasons for any sanctions they impose**

475. The TACP's current sanctioning provisions⁷⁸ provide for maximum and minimum fines and sanctions. But with no additional guidance on where a sanction should fall within these broad ranges, and no requirement that the hearing officer explain his or her reasoning for the sanction, consistency in sanctioning is difficult to achieve. This recommendation is thus designed to make sanctioning clearer, fairer, and more consistent. Sanctioning guidelines should give guidance to hearing officers on the appropriate baseline range of sanctions for classes of conduct. They should also provide guidance on when to depart below a recommended sanctions range, based on mitigating factors such as cooperation; when to impose restitution alone; and when to depart above the recommended sanctions range, based on aggravating factors such as repeated offences.

476. On consultation, Smith Hulsey & Busey stated that "[they] recognize the arguments for and against minimum mandatory sentences, and we have been frustrated by the disparate sentences imposed by hearing officers for similar offenses. On the other hand, the Panel's suggestion of a sanctioning guideline system injects substantial, and unnecessary, complexity into the process". In the Panel's view, already expressed above in relation to the practical guidance document, such sanctioning guidelines would be helpful, though their form and length are matters for the new SB and TIU once in place.

- (j) **Restitutionary and other consequences of breach: there should be further consequences of breach than sanction**

477. Currently, sanctions imposed by AHOs upon a finding of a TACP offence are limited to any combination of a fine up to \$250,000, an amount equal to the value of any winnings or other amounts received by the Covered Person in connection with the offence, a ban from participating in any event organised or sanctioned by any International Governing Body for a defined period, and a suspension of credentials and access to any event organised, sanctioned, or recognised by any International Governing Body for a defined period. The permitted sanctions should be expanded to also include, to the extent not already included, (1) forfeiture of prize money; (2) forfeiture of ranking points; and (3) forfeiture of appearance fees. The tribunal should also be able (1) to order that a Covered Person who violated the TACP take additional integrity training or assist in the integrity training or education of others and (2) to limit the Covered Person's ability to obtain or sponsor accreditation or registration for others. On consultation, Smith Hulsey & Busey supported this proposal.

- (4) **Recommendation 11: The TIU's work should be subject to greater transparency, to promote public understanding and confidence**

- (a) **Transparency of the TIU: the TIU should publicise the resolution of disciplinary proceedings, whatever the result, with appropriate redaction or in summary form**

478. The TIU does not now publicise information about its investigations or proceedings unless and until after a disciplinary proceeding has resulted in a sanction against a Covered Person. As at the date of the Final Report, the TIU had issued a press release in respect of 54 successful prosecutions (out of 59 in total) and had published the AHO's written decision in respect of only four successful prosecutions. The TIU had not issued a press release in respect of any acquittals (of which there were two in total).

⁷⁸ TACP (2018), H1,a.i, b.i.

479. However, this practice has resulted in a public perception that the TIU is overly secretive, undermining confidence in the TIU's operations. The alternatives are to publish the initiation of proceedings and then subsequently their outcome, whether there is a conviction or an acquittal, or to maintain confidentiality in the initiation of proceedings, and only to publish their outcome, again whether there is a conviction or an acquittal. There are competing considerations that weigh in favour of each alternative. On the one hand, the publication of the initiation of proceedings and their outcomes would increase transparency significantly, and would mirror the position in relation to most criminal proceedings. On the other hand, the perception of secrecy does not justify a change in approach that would be unfair to Covered Persons, or jeopardise the effective fight against match-fixing. The publication of the initiation of proceedings might cause unfair reputational, and financial, harm to a Covered Person who is later acquitted.
480. In the Panel's view, the same arguments do not, however, apply to the publication of the result both when there is a conviction and when there is an acquittal. In either case the reasons for the decision are important and should be known to all Covered Persons and the public as a whole. Where there has been an acquittal, the reputation of the Covered Person can be protected through suitable redaction or by a summary of the reasons being produced.
481. In light of the above, the Panel recommended in the Interim Report that only final and binding decisions to acquit or sanction a Covered Person should be publicised, and invited further input on consultation.
482. On consultation, the ITF stated that: *"at the very least, publication of acquittals should only take place with the agreement of the individual concerned"*. The TIU stated: *"the intense media and public attention that may result from announcement of an acquittal decision could be damaging to the reputation and status of an individual. This would not... be effectively controlled by redacting information such as a Hearing Officer's decision"*. Smith Hulsey & Busey, on the other hand, stated they: *"agree with the Panel that it would be inappropriate to publicize the name of Covered Persons charged with corruption offense before an adjudication of guilt"* and *"see no objection to publishing determinations of acquittal, provided that sufficient redactions are done to avoid identifying the Covered Person"*.
483. The Panel recognises that in some circumstances the identity of a person who has been acquitted should be protected. This can, however, be achieved through appropriate redactions being made or through publication of a summary of the reasons. As such, the Panel has decided to maintain Recommendation 11(a) as set out above.
- (b) Statistics related to potential magnitude of threats to integrity: the TIU should regularly publish detailed information about betting alerts**
484. The TIU should provide the public with more detailed information about the betting alerts it receives, including, at least, a breakdown of betting alerts by the specific event levels and the numbers of players who are subject to multiple betting alerts. The TIU should provide this information in a way that allows comparisons over time. This additional information will allow tennis stakeholders and the public to monitor one important metric of potential integrity breaches. On consultation, the International Governing Bodies supported the principle of enhanced transparency.
- (5) Recommendation 12: The TIU should broaden its cooperation with local tennis communities, national federations, law enforcement, betting operators and other third parties**
- (a) Regional TIU officers and agents: the TIU needs regional officers to establish closer relationships with local stakeholders, including national federations, law enforcement agencies, regulators, and officials**
485. The centralised presence of the TIU in the UK ignores the reality that tennis is an international sport that is played by professionals all over the world. The TIU needs regional officers, with greater geographic, linguistic, legal, and cultural diversity, to facilitate stronger working relationships with local stakeholders. A more localised TIU presence through regional officers will improve the collection of intelligence and the reporting of integrity issues from Covered Persons – who are often uncomfortable

reporting such information to unknown individuals located thousands of miles away at the TIU – and other local stakeholders. Also, regional officers will improve the TIU’s coordination with local sports federations, law enforcement authorities, and regulators. In this respect, the TIU should primarily take into account that several countries have implemented (even if not yet ratified) Article 13 of the Council of Europe Macolin Convention by establishing national platforms where law enforcement agencies, local sports federations, and betting operators and regulators can exchange intelligence, and coordinate their efforts, investigations, and legal proceedings to fight the manipulation of sports competition. The TIU, through its regional officers, should engage with those national platforms to more effectively gather and share intelligence.

486. In light of the above, the Panel recommends that one of the first priorities of the new TIU should be to identify regional officers in the geographical areas where match-fixing appears to be most widespread and in those jurisdictions where the TIU believes regional officers would most effectively improve its ability to work closely with local law enforcement and national federations.

487. Further, it seems to the Panel that there are a number of tasks, such as preliminary on-site interviews, that the TIU should be able to delegate to an official at the event or a national federation officer with responsibility for integrity.

(b) Coordination with law enforcement: the TIU should engage in cooperative relationships with law enforcement, pursuing provisional suspensions and, where possible, disciplinary proceedings in parallel with coordinated law enforcement efforts

488. The TIU’s mission of safeguarding integrity in tennis would benefit substantially from greater coordination with law enforcement authorities around the world, who could help bring to justice the most serious corruptors in the sport. To that end, the TIU needs to cultivate cooperative relationships, and promote the sharing of information, with such authorities.

489. The TIU should also reconsider how, and when, it cooperates with national law enforcement agencies. The Panel recognises the utility in securing criminal convictions of those involved in breaches of integrity where possible, not least because of the added deterrent effect of such convictions. The Panel also recognises that law enforcement agencies generally enjoy greater investigatory powers than the TIU. On the other hand, disciplinary proceedings are of different nature from criminal ones – involving, among other things, different standards of proof and length of procedures – and the “automatic” primacy of the latter proceedings over the former, or excessive deference of the TIU toward criminal investigations, can lead to potential or actual disciplinary impunity, and certainly misunderstandings by the public and national federations.

490. In light of the above, the TIU should decide whether or not cooperation with law enforcement agencies is desirable, and whether criminal investigations and/or proceedings should take primacy (i.e. whether disciplinary investigations and/or proceedings need to be suspended until criminal investigations and/or proceedings are concluded), on a case-by-case basis taking into account all circumstances that might be relevant to effectively and promptly protect the sport’s integrity. These circumstances include the potential benefits of using criminal procedures and sanctions in a given case, the likelihood that the law enforcement agency will pursue criminal proceedings, the expected time within which the parallel criminal proceedings would be commenced and completed, and the availability of provisional suspensions to safeguard tennis during ongoing criminal proceedings. The TIU should formalise the consideration of the relevant factors with an internal guidance document for its investigators. The TIU should also give consideration to the views of its regional officers as to when it might be counterproductive for the TIU to cooperate with local law enforcement agencies or to give primacy to criminal over disciplinary investigations or proceedings. On consultation, the International Governing Bodies and the Japanese Tennis Association, supported this recommendation.

(c) Cooperation with national federations: measures to improve the TIU’s engagement with national federations

491. Likewise, when it comes to the exchange of intelligence and evidence with national federations regarding disciplinary offences, the TIU’s record is mixed. While the TIU enjoys good relations with some national federations, it has no relationship with most national federations and poor relationships

with others. Regional officers could help to liaise and build relationships with national federations due to their better understanding of the cultural, linguistic, and legal framework within which those federations operate. The regional officers would also be in a better position to advise on whether cooperation with a national integrity unit or a national federation should be established through an official protocol or on a case-by-case basis.

492. Although the creation of regional officers should help to address this, the ITF should require that each of the national federations designate a formal liaison to the TIU. This person should act as a point of contact with the TIU and its regional officers and as a resource for assisting in the TIU's greater local outreach, including its delivery of educational programs to players and others in the international tennis community.
493. There are also jurisdictional complications that impair the relationships between the TIU and some national federations: some countries have legislation requiring national federations to pursue disciplinary proceedings for corruption offences involving their players, and sanctions imposed by certain national federations may only apply in their respective countries. Absent unusual circumstances, disciplinary decisions taken by national federations should be recognised or at least considered by the TIU and the International Governing Bodies. In all other cases, action by a national federation should not preclude the TIU from proceeding with its own investigation and enforcement action.
494. On consultation, the ITF stated that *"...staffing in some National Association[s] is limited. Requiring National Associations to designate officials who have active roles in relation to corruption creates an additional resource burden in those National Associations"* and added that this burden should also be considered in light of the possibility of lost revenue in the light of Recommendation 1. The ITF also stated that *"the liaisons would require training, which constitutes an unspecified, but potentially significant, cost that must be borne by the International Governing Bodies. Consequently, the ITF is cautious about accepting a recommendation for which the scope, operating logistics and requirements and consequential cost is unspecified"*.
495. The Panel does not consider that the cost considerations outweigh the benefit anticipated. The Panel considers that it is clearly appropriate, given the extent of the problem faced by the sport, that each national federation should designate an individual who has responsibility for integrity. The Panel has addressed above the matter of the ITF's potential lost revenues arising from Recommendation 1.

(d) Cooperation with betting operators

496. On consultation, Sportradar stated that *"the Panel has omitted betting operators from the various cooperation processes"* and that it *"would have expected this to be explicitly included given that structured and effective collaboration with the betting industry is an incredibly valuable tool in addressing integrity concerns, highlighting issues and identifying problem[s]..."*
497. As the Panel has made clear in the context of Recommendation 1, the Panel views cooperation between the TIU and betting operators as very important, particularly through the conclusion and proper operation of a Memorandum of Understanding between each betting operator and the TIU. The Panel is content for this to be reiterated here.

(e) Coordination with other sports: the TIU should attempt to work with other sports on integrity issues

498. Betting-related corruption is a challenge facing many sports beyond tennis, and the TIU should attempt to join forces with other sport regulators who are grappling with this issue. For example, the PGA Tour launched an integrity program to *"protect our competition from betting-related issues"* that took effect on 1 January, 2018. In the past year, UEFA consolidated its integrity, anti-doping, and disciplinary units into one entity, while its President remarked that match-fixing was *"a disease that attacks football's very core"*. And officials in other professional leagues, including cricket and baseball, have expressed concerns about the looming threat of match-fixing and corruption to the integrity of their sports.

499. Despite differences among professional sports, they share a common interest in effectively combatting all integrity threats, especially match-fixing which strikes at the heart of legitimate competition. They also face similar challenges in effectively policing against betting-related breaches of integrity. The TIU should endeavour to work with other sports on integrity issues in order, among other things, to share information about potential corruptors, to exchange knowledge about effective strategies and tactics, and to identify best practices.
500. On consultation, Francesco Ricci Bitti⁷⁹ broadly supported this recommendation, stating that “*as the corruptors are mostly likely the same across all sport, the IOC has decided to assist everyone including the majority of sports that are as yet unaware of the threat by creating the IBIS system, a centralised platform for exchange of alerts in relation to competition and in cooperation with government organisations and the betting industry*”. Captivate also agreed that “*the TIU must be actively involved in any cross-sport initiatives coordinated/organised by bodies such as the IOC with, for instance, their International Forum for Sports Integrity*”.

E THE PANEL URGES NATIONAL AUTHORITIES TO DEVELOP NATIONAL AND INTERNATIONAL REGULATION AND ENFORCEMENT TO ASSIST IN THE GLOBAL FIGHT AGAINST MATCH-FIXING

501. National and international regulatory and enforcement regimes can play an important role in combatting betting-related corruption, and the Panel has noted numerous areas for improvement in Chapter 14 Section E of the REA. National authorities are urged to change their approach to the criminal prohibition and prosecution of match-fixing and to take steps to ratify and implement the available mechanisms for international cooperation. While the tennis International Governing Bodies and national federations cannot implement such changes directly, they can add their voices to influence key decision makers.
502. On consultation, the TIU supported this recommendation. Similarly, Francesco Ricci Bitti stated that “*sport cannot and should not solve the problem alone, as is very evident in the experience of the Olympic movement. In this issue, there are two more entities beyond sport: public authorities and the betting industry. They must cooperate utilising their own areas of expertise and influence. Even within the public authorities, there are three levels of responsibility: legislation, betting regulation and law enforcement and these agencies need to be activated worldwide towards the problem of corruption. For tennis to continue to increase funding to TIU is pointless without improving the cooperation of government and the betting industry*”.
- (1) There should be changes in the approach at the national level to the criminal prohibition, and prosecution, of match-fixing**
503. National authorities should implement more robust regulatory and enforcement approaches to betting-related corruption in sport. The International Governing Bodies and national federations can use their influence with the nations in which they operate to promote this. The current shortcomings include a lack of specific criminal laws addressing match-fixing in sport, a lack of sufficient proactivity among some law enforcement authorities in investigating and criminally prosecuting such conduct, and inadequate national regulations governing betting operators. If legal safeguards cannot be assured, tennis authorities have various options, including declining to sanction events in countries that do not offer an adequate legal environment to combat integrity threats and restricting the sale of official live scoring data for events or to operators in such countries.

⁷⁹ Former ITF President and current President of the Association of Summer Olympic International Federations (“ASOIF”).

(2) There should be ratification and implementation of the Macolin Convention and other international cooperative efforts to combat sports corruption

504. The only international instrument that specifically deals with match-fixing is the Council of Europe Convention on the Manipulation of Sports Competitions ("Macolin Convention").
505. The Macolin Convention provides a useful framework for countries to update their systems and deal more effectively with match-fixing at the national and, even more importantly, the international level. It encourages signatory countries to adopt criminal laws that sanction match-fixing in their jurisdictions and to promote the exchange of information among their betting regulators concerning illegal, irregular, or suspicious betting activities. The Macolin Convention also suggests that signatory countries encourage their national sports organisations to prohibit betting or misuse of inside information by sports participants.
506. The Macolin Convention will enter into force upon ratification by five states, including three member states of the Council of Europe. To date, the Macolin Convention has been signed by 32 states and ratified by three states (Portugal, Norway and Ukraine). Switzerland has announced publicly that it would ratify the Convention. Further ratifications are being discussed by other states. Because it is open to signature by countries outside the Council of Europe, the Convention has the potential to impact most, if not all, of the important tennis countries. Once the Convention is ratified, the systems to be put in place under it would, amongst other things, enable the TIU to request intelligence and evidence from law enforcement agencies and allow national betting regulators to take steps to limit the on which betting markets may be offered.
507. Accordingly, in light of the above, the Panel urges the relevant national authorities to ratify and implement the Macolin Convention. The tennis authorities should approach countries at the national and international (Council of Europe, European Union) levels, through their respective national federations and international organisations (ITF, ATP, WTA), to promote the signature and ratification of the Macolin Convention. Ideally, this step should be coordinated with other sports, such as football. Even without further ratification of the Macolin Convention, there is ample room for sports organisations and national law enforcement agencies to develop further their systems and platforms in order to improve their cooperation and coordination in fighting the international threat of sports corruption.