



**STATEMENT OF COMMISSIONER GARY BETTMAN  
BEFORE THE HOUSE OF REPRESENTATIVES COMMITTEE ON ENERGY  
AND COMMERCE, SUBCOMMITTEE ON COMMERCE, TRADE AND  
CONSUMER PROTECTION REGARDING DRUGS IN SPORTS**

**SUBMITTED IN CONNECTION WITH  
TESTIMONY ON FEBRUARY 27, 2008**

I would like to thank the Chairman, the Ranking Member and the Subcommittee Members for inviting me to testify today.

The prevention and detection of the use of performance enhancing drugs is a matter that the National Hockey League (“NHL”) and the National Hockey League Players’ Association (“NHLPA”) take quite seriously. Indeed, while our historical experience indicates that performance enhancing drugs are not a problem in the NHL, we nonetheless believe the public at large, and our fans, in particular, are entitled – and deserve – to have confidence that our games are being played in an environment free of performance enhancing substances. Accordingly, in July 2005, as part of the current Collective Bargaining Agreement (“CBA”), the NHL and the NHLPA implemented a modernized drug testing and performance enhancing substances control policy that is specifically directed to prevent the use of performance enhancing drugs in our game. Consistent with the principles attributed to any comprehensive policy against doping, the NHL/NHLPA Performance Enhancing Substances Program (“Program”) places significant emphasis on education and awareness regarding the use of performance enhancing substances. Since the inception of the Program, the NHL and NHLPA have monitored the operation of the Program and have, when appropriate, modified it from time to time to ensure that it is functioning effectively in discouraging and eliminating the use, however negligible, of performance enhancing substances in our sport.

As stated in the CBA, the primary purposes of the Program include: (1) the education of players regarding the health risks posed by the use of prohibited performance enhancing substances (“Prohibited Substances”); (2) the treatment of

players who have used Prohibited Substances; and (3) the deterrence and prevention of such use through education, randomly timed no-notice testing, and the imposition of disciplinary penalties where appropriate.

Key features of the Program include the following:

- The Program is managed by an independent third-party administrator that is responsible for hiring independent third-party sample collectors, and determining when random no-notice testing will occur.
- The samples are independently analyzed by a WADA-certified laboratory, located in Montreal, that is managed by Dr. Christiane Ayotte (the "Laboratory").
- The independent third-party administrator coordinates with the Laboratory to create reports of the test results.
- NHL players are subject to testing for the performance enhancing drugs designated on the WADA out-of-competition panel.
- On a random basis, the players are subject to up to three (3) no-notice tests each season.
- Positive tests for performance enhancing substances result in mandatory discipline as follows: (1) for the first positive test, a suspension of twenty (20) NHL games without pay; (2) for the second positive test, a suspension of sixty (60) NHL games without pay; and (3) for the third positive test, a "permanent" suspension without pay, although a player so suspended may reapply for discretionary reinstatement after a minimum period of two (2) years by making an application to a committee comprised of designated legal and medical representatives from the NHL and the NHLPA.

The Program incorporates a mandatory educational component providing the players with in-person education on Prohibited Substances and the nature of the Program each year beginning in Training Camp. Under the Program, education and training on the details of the Program also is provided to Club Athletic Trainers and Club Physicians. The educational provisions reflect the comprehensive nature of the Program, and the belief of the NHL and the NHLPA that education regarding the dangers of illegal substances (both performance enhancing and otherwise) is, perhaps, the most effective tool in preventing their use and abuse.

The NHL and the NHLPA strongly believe that our collective knowledge regarding our sport has enabled us to develop an effective and meaningful Program. We also believe that our joint active management of the Program has enabled us, and will continue to enable us, to monitor its operation and to modify it over time to ensure that it is functioning effectively in discouraging and eliminating the use of performance enhancing substances in our sport. Indeed, since the Program's inception in 2005, two significant modifications already have been made to the Program.

First, the Program as initially negotiated and implemented provided for players to be tested up to two (2) times per season. This limitation was modified during the 2006/07 season and instead, on a random basis, the players on some NHL teams are subject to up to three (3) no-notice tests per season. The independent third-party administrator has exclusive responsibility for determining how many times each team will be tested.

Second, the Program was modified during the 2006/07 season to create a mechanism that allows for the education and subsequent testing of players who are added to a roster after the date on which their Club's in-person training has been provided.

As a historical matter, the many years of testing NHL players who have been involved in international competitions, as well as the more recent testing of our players under the NHL/NHLPA Program, evidence that performance enhancing drugs have never been part of the "culture" of the NHL, and that instances of use by our players have been extremely rare. This is not surprising when one considers that the alleged benefits of steroid use – significant large muscle development – are not consistent with playing hockey at the highest levels of the sport, and the resulting bulkiness attributable to steroid use simply is not a desired characteristic of skilled NHL players.<sup>1</sup> Over the past twelve years, nearly 1,000 NHL players have participated in international competitions, including the IIHF World Championships, the 1998, 2002, and 2006 Olympics and the 2004 World Cup of Hockey, where they were subject to drug testing under the standards of the World Anti-Doping Agency ("WADA"). Over this time period, we are aware of only two players who were disciplined for taking a prohibited substance and were suspended from international competition. Of the two, one of the players tested positive for Propecia. Finally, the testing results for the first two full years of the Program (2005/2006 and 2006/2007) seemingly confirm that there is not a practice of NHL players using performance enhancing drugs: 2,950 tests were conducted on NHL players, and of that number, one player was determined to have violated the terms of the Program. That player was suspended for 20 NHL games without pay. With respect to the 2007/08

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<sup>1</sup> We recognize that athletes have, on occasion, taken performance enhancing drugs in an effort to speed up recovery from an injury. However, while we do not believe that NHL players have adopted this approach, we feel confident that our Program is designed to discourage, and eliminate, such use.

season, 770 tests have been conducted to date and no players have been found to have violated the terms of the Program. These statistics offer strong evidence that the Program is operating successfully in accomplishing its primary purposes, as outlined above.

The NHL also recognizes its obligation to its fans – not only to produce our games in an environment free of performance enhancing substances – but also to educate the public, and our young fans in particular, regarding the dangers of taking performance enhancing substances. To this end, we have worked with the National Federation of State High School Associations to create a video that is being used to educate high school coaches, student athletes and their parents about the dangers of performance enhancing substances. The NHL will continue to be active in helping to raise awareness in this area.

The NHL also recognizes its role and responsibility in helping to promote research on performance enhancing drugs, including the ability to detect drugs that currently are not detectable, such as Human Growth Hormone (“HGH”). The NHL has joined with the United States Olympic Committee and others in a new, long-term program, the Partnership for Clean Competition, that has been created to fund and develop meaningful and scientifically-legitimate research addressing the detection and deterrence of the use of banned and illegal substances in sport, including the identification and detection of designer substances and the development of a widely-available cost effective test to detect HGH. To the extent feasible and practical, we believe it is important to have a testing protocol that is meaningful and effective.

The NHL appreciates being provided with the opportunity to express our views regarding these issues. We remain available should you seek additional information concerning the nature or effectiveness of our Program.