

TIME TO BE GROWN-UPS ABOUT E-DOPING?

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“(E-Sport)‘The Wild West’ -- a young world lacking a uniform anti-doping policy and governance” -David Howman (Former Head of WADA)

INTRODUCTION

Electronic Sports (hereinafter referred to as “**Esports**” or “**esports**”) as a branch of sport has gained significant traction in the past decade. Esports are now slowly moving away from nascent imagery of entertainment and recreation to a full-grown sport. Like any other industry, esports has metamorphosed into a multi-billion-dollar market and simultaneously has pushed sportspersons into stardom, aiding them to accumulate enormous wealth. However, this privilege does not come without predicaments. Athletes are subjected to several doping tests among other regulations before they engage in any sporting event. Esports is one of the most rapidly growing sectors and is expected to

rise to a whopping [1.8 Billion dollars by 2022](#). The fact that esports regulations are on the same levels as other physical activity sports remains a bone of contention for the industry and therefore, debatable. Oxford Dictionary has also formally included its meaning in the year 2015.

Is Esports similar to Sports?

It becomes cogent to understand whether esports should receive the same treatment and regulation as any other sport. [The International Olympic Committee's \("IOC"\) communique](#) in Switzerland clarified this conceptual conundrum, where they pronounced that competitive esports fall within the ambit of sports. The Communique further stated that it would fall within the said ambit as long as there is an element of competition and as per the predefined rules that govern the sport, resulting in a win/loss to the parties engaged.

Esports, like any other sport, requires appropriate preparation, [training and fitness](#) for optimal performance during the competition. Doping and other malpractices by “*e-athletes*” have also come into existence to [boost their reflexes, energy level hike](#) and to maintain the cool during the moment. This blog invites attention in understanding the problems and the need for a robust governing structure for Esports for the future, considering the scalable potential in the coming years.

EARLY INCIDENTS OF E-DOPING

For getting a holistic understanding of e-doping, one has to rewind to the most glaring and infamous case of professional gamer [Kory “Semphis” Fierson](#). Kory’s team shot to fame because of their finesse at playing Counter-Strike: Global Offensive (“CS:GO”) in several esports tournaments. However, after participating in one such tournament of CS:GO, Kory openly admitted on Landers Cstrike [interview](#) that he and his team *Cloud 9* had consumed a drug named, Adderall which works as a stimulant. Adderall is used for treating children and patients having [ADHD](#) (Attention deficit hyperactivity disorder). Kory further added that his team consumed this drug during the competition in Katowice, Poland as a means to retain concentration and attention during the game.

Kory's confession was immediately followed by a response from the Electronic Sports League ("ESL"), wherein they released a list of banned substances. Noting the event that took place, World Anti-Doping Agency ("WADA") thereafter announced that there would be more scrutiny in observing the anti-doping regulations at all times in the arena of Esports. This sudden attention towards esportsing regulations only begs the question if there would be any such statements made by WADA and ESL if there was no such confession.

Apart from consuming performance enhancement drugs, there are other malpractices where coaches risk tarnishing the integrity of esports. In September 2020, Esports Integrity Commission ("ESIC") had suspended almost 40 coaches for exploiting the 'spectator view' functionality in the Counter-Strike Global Offensive game by using the 'coach bug'. The bug allowed coaches unfettered access to not just their team but the opposing team as well and the coaches could effectively use this to navigate and guide their team by creating an unfair advantage.

The analysis of the 'coach-bug' issue in excess of the ESIC's punishment and its repercussions, is a four-tiered process. The coach upon abusing the *bug in games like counter strike* crossed the line of maintaining the integrity of e-sports. This type of breach arguably holds the highest order of disrupting the main game and attracts Articles 2.3.3 and/or 2.4.4 of ESIC Code of Conduct, i.e. "Cheating or attempting to win a Game or Match." This was ultimately taken seriously and the organizers were punished by ESI for breaching rules with a ban in excess to retrospective disqualification of the teams involved in the breach from the competitions. The defaulting teams also had to pay a fine from their winnings. However, these temporary bans with no rigid rules make it quite difficult for any redressal of grievances. Hence, there is a real need for statutory authority to play a decisive role in deterring players from engaging in electronic doping.

NEED FOR A ROBUST LAW

India is one of the youngest nations in terms of age demographics. While the entire world would be ageing, India shall emerge with one of the highest youth population under the age of 30. Currently, there are 54% of youth under the age of 25. These numbers have to be juxtaposed with the fact that esports constantly and predominantly attracts the youth-demographic. Considering the increasingly cheaper availability of electronic goods in the world, and lack of penetration of esports in the Indian market, it might not be a far-fetched assumption to say that the market and the scope of esports in India is still in an infant stage and has not exploded as opposed to other Western and East-Asian countries (such as the Korean E-gaming fraternity). Given the upsurge in the field of esports, the lack of a robust law that discourages/punishes e-doping practices, and the possible inclusion of E-sports in the 2024 cycle of Olympics in Paris as a demonstration sport, e-doping has become a major concern for the industry.

Esports issues in India are not any different from the concerns that the industry faces across the Atlantic. For years now, industry experts have felt the need for a more efficient and organized body regulating esports other than the current set up of the Esports Federation of India (“**ESFI**”). ESFI has been lambasted for its lack of robust player protection schemes and defence of the integrity of e-sports.

Despite such concerns, there is no denying that repercussions exist for the players caught using performance-enhancing banned substances. If players are tested positive for any banned substances, they can be restricted from playing the tournament, even disqualified and could be banned from challenging for the same title again. These ramifications might act as effective deterrence for the players when applying for a different tournament or a different game. However, a significant problem with esports is the capital that is needed to undertake adequate testing for every participant, even when the tournaments are being played physically. This problem accentuates in times such as COVID when most of the tournaments are being played remotely for most of the competition. Hence,

testing for doping can exorbitantly cut deep pockets for the tournament organizers; therefore, the role of regulations becomes excruciatingly essential.

LACK OF COMMON CONSENSUS

It seems that there is very little an electronic athlete can do when they are charged with e-doping issues. For instance, per the International E-sports Federation's ("IeSF") (a signatory of the World Anti-Doping Code), [Article 8 of the Anti-Doping Rules, 2014](#), any incident of doping may be filed at the IeSF's Doping Hearing Panel. The case will then be heard, and if the decision is unsatisfactory or needs more deliberation, a further remedy can be attained through the Court of Arbitration for Sports (CAS). It is interesting to note here that there is no mention of e-sport arbitrators anywhere on the [website](#). Thereby this leaves e-doping incidents in a very precarious situation. This also begs the question if there is some sort of global acceptance of E-sport and if the answer to this is yes, whether such acceptance makes esports falls well within the understanding of sport by the gamut of traditional sporting and governance authorities. Thus, it has been felt for long that affirmative action is needed within the ambit of esports to ensure uniform acceptance and redressal mechanism for esports as well.

[Ceteris paribus](#) and considering the legal delay in India, such loopholes within the governance and policy structure of esports, can pose a significant risk to athletes. A possible risk would emerge if the athlete fails to solve the conflict at the IeSD hearing panel and especially if they do not have the resources to raise it to the (CAS). Such athletes are then forced to take up their grievances locally in India. This results in further depreciation for the athlete as it takes several years for the conflict to resolve due to a lack of precedents and a dysfunctional legal system. Further, it becomes exceedingly difficult for sportspersons to resume their career after the legal turmoil. Overall, the sportspersons end up losing the prime of their career and suffer severe setbacks in career growth.

If esports are considered a legitimate sport, it has to pass through similar filters as any other sport. Therefore, esports athletes are at the risk of running into the same circle of despair as their

counterparts. In addition to this, the esports players deserve a rigid governing body that controls and correct any deviations from the rules through appropriate sanctions. Further, such a body should also guarantee protection for those who engage in esports by taking strict action on incidents that have the potential of tarnishing the integrity of esports.

DISCREPANCY IN THE WADA DOPING WITH REGARDS TO ESPORTS

There also exists a need for a kosher understanding of performance-enhancing drugs concerning esports. As of now, all the drugs prohibited by the WADA List are also unilaterally banned in esports as well. One needs to understand that the drugs that might enhance physical performance in traditional sports may not be relevant to esports at all. Any drug that is used purely for gains in body stamina and muscle mass, but has little or no relevance to reflexes and attention should not be ideally included in the list of prohibited items. However, this is exactly how the system works right now.

A good example of this phenomenon would be [Nandrolone](#). Nandrolone is heavily used for increasing muscle size, strength and power in physical sport alone; and banning Nandrolone in esports has no bearing on the transparency of esports. It should ideally be a non-starter in deciding the criteria for imposing any sanctions/banning on a player for the usage of prohibited substances but as of now, this is just nothing but food for thought. Any player who is engaging in esports and consumes a drug like Nandrolone should not be pulled out of the tournament or banned or be disqualified. Overall, the analysis points out that there is a real need for a separate list of banned substances specifically to cater to esports in the Prohibited List [released by WADA](#) in 2021.

UNDERSTANDING THE NASCENT STAGES OF ESPORTING: THE CONCLUSION

[Ian Smith, a member of the Esports Integrity Commission had recently opined that just like every other sport, Esports should also be given their due time to grow, fall and learn from their mistakes.](#)

This, to a certain extent, is a fair comment to make. However, doping issues that question the integrity of esports have to be tackled imminently. Any unfair means of decision making in esports should not

be encouraged and instead, be dealt with cogent action. Therefore, it makes sense that doping must be studied more closely and carefully in the realm of esports before it is brought under a common system of governing regulations meant to cater to traditional sports.

On the good side, it is to be noted that the movement in this direction is gaining the deserved attention. Mr Smith further went ahead and suggested that the only plausible solution to this impediment is education and that alone can be the best deterrent. He further added that anyone who knows the risks of it both in terms of their health and career would not engage in such practices.

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