

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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November 2, 2011

Allen H. (Bud) Selig
Commissioner
Major League Baseball
245 Park Avenue, 31st Floor
New York, NY 10167

Michael Weiner
Executive Director
Major League Baseball Players Association
12 East 49th Street, 24th Floor
New York, NY 10017

Dear Mr. Selig and Mr. Weiner:

Press reports indicate that agreement on a new Major League Baseball labor agreement is imminent.¹ As you enter final negotiations over this agreement, we hope that you ensure that it addresses two critical public health issues: (1) testing for Human Growth Hormone and (2) ending the use of smokeless tobacco. These issues affect the integrity of the game, the health of your players, and most important, the health of teenagers who aspire to be like pro players.

Regarding Human Growth Hormone (HGH), we urge that Major League Baseball improve its current performance enhancing drug policy by instituting random blood tests of players for HGH. In December 2007, Senator George Mitchell released the report of his independent investigation into the use of illegal performance enhancing substances by players in Major League Baseball. In Senator Mitchell's report, he found that "while detectable steroid use appears to be declining ... the use of human growth hormone has risen."² According to Senator Mitchell, players were turning to HGH "because unlike steroids, it is not detectable

¹ FoxSports.com, New MLB Labor Agreement Within Reach (Oct. 31, 2011) (online at <http://msn.foxsports.com/mlb/story/new-major-league-baseball-labor-agreement-wont-be-stopped-by-minor-details-103011>)

² Report to the Commissioner of Baseball of an Independent Investigation into the Illegal Use of Steroids and Other Performance Enhancing Substances by Players in Major League Baseball, at SR-1 (Dec. 13, 2007).

Mr. Bud Selig
Mr. Michael Weiner
November 2, 2011
Page 2

through urine testing. ... [P]layers switched to human growth hormone precisely because it is not detectable.”³

Commissioner Selig, when you testified before the House Oversight Committee in 2008, you stated that “I’m committed to stop the use of HGH in our sport” and promised that “when a valid, commercially available, and practical test for HGH becomes a reality ... whether based on blood or urine, baseball will support the utilization of that test.”⁴ Mr. Weiner, at the same hearing, your predecessor, Donald Fehr, stated that “we’ll consider in good faith any valid and effective test which is developed.”⁵

The time to begin testing for HGH in baseball has arrived. Available tests require only a small, teaspoon-sized blood sample, which is then evaluated through an “isoform” test to determine if the HGH in an athlete’s body is naturally occurring or the result of an injection of the synthetic form of the drug. The test is approved and used by the World Anti-Doping Agency and has been used successfully for the Olympics. It is already used to test minor league baseball players. Earlier this month, a group of leading anti-doping scientists and lab directors wrote that “the test itself is scientifically accepted and has undergone extensive evaluation.”⁶ A second group of experts wrote that “the current HGH test is safe, scientifically reliable, and appropriate for use in professional sports leagues. There is no scientific question about its validity.”⁷

We also hope you will address the use of smokeless tobacco by major league players. At an April 12, 2010, hearing before the Health Subcommittee of the Committee on Energy and Commerce, we heard about the ongoing use of this drug by major league players and the impact this use has on children and young adults who watch the games and admire the players. Dr. Gregory Connelly of the Harvard School of Public Health informed that Committee that “there can be no doubt that public use by MLB players directly contributes to youth smokeless tobacco use in the United States.”⁸ Dr. Connelly supported a ban on the use of smokeless tobacco in Major League Baseball dugouts and on the field, concluding that such a ban would improve the health of the players and “is in the interest of millions of young boys in Little League, Babe Ruth, or high school baseball.”⁹

³ *Id.*, at SR-2.

⁴ House Committee on Oversight and Government Reform, *The Mitchell Report: The Illegal use of Steroids in Major League Baseball* (Jan. 15, 2008).

⁵ *Id.*

⁶ Letter from World Association of Anti-Doping Scientists to Larry Bowers, Chief Scientific Officer, U.S. Anti-Doping Agency (Oct. 5, 2011).

⁷ Letter to Roger Goodell and DeMaurice Smith from United States Anti-Doping Agency drug testing experts (Oct. 3, 2011).

⁸ Committee on Energy and Commerce Subcommittee on Health, *Smokeless Tobacco: Impact on the Health of our Nation’s Youth and Use in Major League Baseball*, Testimony of Gregory Connelly (Apr. 12, 2010).

⁹ *Id.*

Mr. Bud Selig
Mr. Michael Weiner
November 2, 2011
Page 3

There is ample precedent for a ban on the use of smokeless tobacco on the field and in the dugout. The use of cigarettes by players in uniform and in view of the public has been banned for over three decades. Minor league baseball has banned the use or possession of smokeless tobacco in ballparks since 1993, with no adverse impact on the game or its players.

At the April 2010, hearing, David Prouty, the MLB Players Association's Chief Labor Counsel, agreed that smokeless tobacco presented a health risk to players and other users. He also agreed that the players' status as role models means that their use of smokeless tobacco influences the children and young adults who are fans of the game.¹⁰ Rob Manfred, on behalf of Major League Baseball, declared it "a priority" to address the use of smokeless tobacco in the new collective bargaining agreement.¹¹

The impending collective bargaining agreement gives Major League Baseball and the MLBPA the opportunity to improve the health of its players, improve the integrity of the game, and ensure that big league players continue to be valuable role models for the game's next generations of fans. We hope that you will grasp this opportunity by banning the use of smokeless tobacco and implementing effective testing for Human Growth Hormone.

Sincerely,



Henry A. Waxman
Ranking Member
Committee on Energy
and Commerce



Frank Pallone, Jr.
Ranking Member
Subcommittee on Health

¹⁰ Committee on Energy and Commerce Subcommittee on Health, Smokeless Tobacco: Impact on the Health of our Nation's Youth and Use in Major League Baseball, Testimony of David Prouty (Apr. 12, 2010).

¹¹ Committee on Energy and Commerce Subcommittee on Health, Smokeless Tobacco: Impact on the Health of our Nation's Youth and Use in Major League Baseball, Testimony of Rob Manfred (Apr. 12, 2010).