

## **IPACS Benchmark Guidelines**

**Updated 2 September 2022, version 2**

### **IPACS Benchmark E5 – The organisation has adopted rules which comply with competition law / anti-trust legislation in eligibility of athletes and sanctioning of events**

#### Definitions

- Competition law / anti-trust legislation – domestic and transnational legislation intended to prevent the creation of cartels and monopolies that would damage the interests of consumers by reducing competition in the market; prominent examples of this type of legislation include European Union competition rules and anti-trust laws in the USA
- Eligibility of athletes – rules that determine whether or not athletes are permitted to enter competitions sanctioned (in the sense of approved or certified) by the organisation (e.g. minimum age, nationality requirements, achievement of a qualification standard, participation in events hosted by third parties)
- Sanctioning events (in the sense of approving or certifying) – rules and an associated procedure through which the organisation gives official approval for a competition to take place in accordance with its regulatory role, using the organisation's intellectual property (e.g. use of its field of play rules, any specific arrangements for the field of play; appointment of qualified officials; dates agreed; anti-doping testing in place); event hosts will also need to meet the organisation's criteria, including for human rights and sustainability

#### Introduction to this benchmark and its significance

- There is relevant legislation, both transnational and domestic within many countries
- Sports organisations enjoy a degree of autonomy to establish and control the rules of sport, to determine the structure and governance of their organisations, and to be recognised as the sole governing body within a geographical area; in order to preserve this autonomy, it is important that sports organisations operate in a responsible way
- Sports organisations such as International and National Federations have a regulatory role in ensuring harmonised rules of the game, safeguarding the integrity of sport and co-ordinating the competition calendars; many of them are also running sports events or have an interest in sports events. Having appropriate rules in place protects against a potential conflict of interest and legal actions, where the sports organisation could be considered to be abusing its regulatory role to discriminate against certain event organisers, or to be abusing its dominant position to exclude other operators from the market of commercialised sports events in its particular sport
- High-profile recent legal cases involving sports federations and private event organisers have demonstrated that ensuring compliance with competition/anti-trust law is a vital task for many sports organisations
- Having appropriate rules in place regarding the eligibility of athletes helps ensure that they can compete under fair and equal conditions

#### Commentary on the action to be taken

- The organisation should seek legal advice on this topic; these guidelines do not constitute legal advice
- The organisation should implement an unrestrictive eligibility rule for athletes, which does not impose unreasonably onerous conditions (e.g. long suspensions for participating in third-party events)
- The organisation should have a rule and process for sanctioning (approving) events organised by members and other key stakeholders, setting out the requirements
- The organisation should have a process by which third parties can apply for an event they organise to be sanctioned (approved)
- The organisation should have appeal processes
- The organisation should seek a co-operation agreement if there are relevant third-party event organisers

- See also Recommendation E4 (risk assessment) and E10 (third party risks)

Investment requirement – some investment may be needed for legal advice; the level of investment should be proportionate to the specific context of the organisation and sport; legal costs and the wider consequences in the event of a dispute can be very high

#### Guidance according to stage of organisation

##### Early stage

- The organisation has an appropriate, unrestrictive, transparent eligibility rule for athletes that is established well in advance of major events
- The organisation has an appropriate, unrestrictive, transparent rule and process for sanctioning (approving) events organised by members and other key stakeholders that is established well in advance of major events
- The organisation publishes its rules and regulations

##### Developing

- The organisation has a published process by which third parties can apply for an event they organise to be sanctioned (approved)
- The governing body reviews the rules for athlete eligibility and sanctioning events regularly

##### Advanced

- The organisation has an appeal process in place for athletes and event organisers
- The organisation has a co-operation agreement in place with any significant third-party event organisers

## Good practice examples

### International Sports Organisations (from 2020)

- ITU: There is a [co-operation framework](#) with private event organiser Ironman:
  - Eligibility criteria for athletes in the [Competition Rules](#) are not restrictive - see 2.5
- FIH: [Regulations on Sanctioned and Unsanctioned Events](#)
- UWW: [Guidelines for the recognition of third-party events](#), with an appeal process
- ISU: Revised eligibility rules were adopted ([Rule 102](#)) and guidelines ([Communication 2171](#)) for third party organisers, which were approved by the European Commission

### Overall standard among International Federations:

- 16 out of 31 members of ASOIF had a proportionate eligibility rule and evidence of relevant activity, such as discussion of eligibility/event sanctioning by the Executive Board and/or General Assembly  
<http://www.fih.ch/inside-fih/our-strategy/>

### Selected references

- [ASOIF GTF Questionnaire 2019-20](#), Indicator 6.5  
[IOC Olympic Charter](#) – Fundamental Principle 5:  
“Recognising that sport occurs within the framework of society, sports organisations within the Olympic Movement shall apply political neutrality. They have the rights and obligations of autonomy, which include freely establishing and controlling the rules of sport, determining the structure and governance of their organisations, enjoying the right of elections free from any outside influence and the responsibility for ensuring that principles of good governance be applied.”
- European Union: [Competition Rules](#)
- USA Federal Trade Commission: [Antitrust Laws](#)

### ASOIF indicator 6.5 – scoring definitions used in the 2019-20 assessment

- 0 – No
- 1 - Some acknowledgement of potential issue in official documents, such as a basic eligibility rule
- 2 – Proportionate eligibility rule (or no restrictions) for athletes and for sanctioning of events
- 3 – Proportionate eligibility rule, evidence of relevant activity, such as discussion of eligibility/event sanctioning by Executive Board and/or General Assembly
- 4 – State of the art policies and procedures in place, including appeal process