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## Hero Athletes

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## Hero Athletes

🕒 APRIL 1, 2013 BY [ANDY BRUNNER-BROWN](#) 💬 0 COMMENTS

Professional athletes are heroes we can aspire to be. Athletes are otherwise ordinary people from ordinary backgrounds. They achieve status of hero when they train hard and put all their efforts into the sport, which demonstrates how hard work can pay off. On the other hand, superheroes, like the Avengers or X-Men, probably use performance-enhancing drugs.

For years, [Lance Armstrong was a role model](#) for anyone struggling through hard times: after being diagnosed with cancer, he trained and pushed himself to become a record-setting Tour de France cyclist. In addition to winning a bronze medal at the Olympics and seven Tour de France wins—a record above the five wins several other cyclists have—Armstrong created the Livestrong campaign, which has raised more than \$500 million to fight cancer and, more importantly, has inspired cancer patients and their loved ones.

He cheated. Armstrong used performance-enhancing drugs (PEDs); it was all “one big lie.” The Court of Arbitration for Sport [stripped him of his titles](#). The U.S. Department of Justice has also joined in the [civil suit](#) against Armstrong for “false claims to the U.S. Postal Service (USPS) in connection with its sponsorship of a professional bicycle racing team by regularly employing banned substances and methods to enhance their performance.”

Yet, not all punishments for cheating are so extreme.

Major League Baseball players receive only a figurative slap on the wrist when caught using PEDs. For instance, San Francisco Giant [Melky Cabrera](#) received a suspension of only 50 games after testing positive for testosterone; his suspension lasted only approximately one third of the regular season. Indeed, it was only a few years ago that the MLB pulled itself out of the “[Steroids Era](#),” a “period of time in Major League Baseball when a number of players were believed to have used performance-enhancing drugs, resulting in increased offensive output throughout the game.”

Many PEDs are banned from sports and many are illegal to possess or sell. Not all PEDs are illegal; indeed, some are available over the counter. The drugs pose health risks, some of which are unknown because clinical studies on such high doses would be unethical. And using PEDs is cheating:

Almost all sports fans decry the use of performance-enhancing drugs. It’s cheating. It gives the user attributes he or she did not rightfully earn. It just feels wrong to most fans.

The World Anti-Doping Agency, formed in 1999 after the doping scandals during the Tour de France in 1998, sets the international standard for prohibited substances and methods. However, the National Football League, the National Basketball Association, and Major League Baseball have only recently been in near-compliance with the WADA code.

The strength of American players’ unions in contracting with the sports leagues has made it difficult to increase PED testing. But if sports leagues *truly* wanted to eliminate cheating through the use of PEDs, they would levy harsher punishments for even limited uses of PEDs. However, Major League Baseball and other sports leagues are [money-making machines](#). They are not designed to be inspirational agencies full of heroes; the heroes are a byproduct of success.

This focus on profit created a market failure in preventing PED use in American sports. In fact, the focus on profit created an incentive to allow PEDs. The more PED use, the better the games, and the better the games, the more viewers. Besides, [cheating is part of baseball](#).

The announcement that the 2013 baseball season will include [in-season testing](#) for human

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growth hormone (HGH) alludes to a market failure that there had previously been no reason to increase testing despite widespread usage:

“As I said to the owners ... when we announced this to the clubs, ‘This is a very proud day for baseball.’ And I believe that,” [Major League Baseball Commissioner] Selig said. “This is remarkable when you think where we were 10, 12, 15 years ago and where we are today. Nobody could have dreamed it.”

Ten years ago, after WADA had formed and after Barry Bonds broke the 600-career-home-run barrier, including an amazing 73 home runs in a single season, nobody dreamed of in-season HGH testing.

There are, of course, privacy issues regarding the testing of athletes, and sports leagues are private organizations that “have their own testing policies that usually require consent to such policies (including appeals) as a condition for participating in that league.” Such privacy protections undermine the federal laws that prohibit PEDs, such as the Anabolic Steroid Act of 2004.

Nevertheless, the federal government has a strong interest in curtailing PED use in professional sports. Even when professional athletes achieve impossibly athletic feats, they risk their own health. More importantly, the professional athletes—as role models and heroes—encourage non-professional athletes to mimic professional performance, which sometimes results in amateurs—including teenagers—using PEDs. Illegal use of PEDs by professional athletes induces amateurs to illegally use PEDs.

Because of these concerns, and the interstate nature of professional sports, it is possible that Congress’ powers could reduce the privacy protections of professional athletes in private organizations.

Keep the sport as a sport. No Iron Man suits or mutant powers required. Let athletes be natural heroes, not superheroes.

Otherwise, the legislature is signaling that minor doping, albeit potentially illegal, is an acceptable path for athletic success. Alternatively, we could legalize all PEDs and encourage or even require athletes to use steroids. After all, fans might appreciate an increase in the home-run-to-dollar value at a baseball game.

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