



Valencia, 6th October 2007

Russell Coutts
CEO - BMW Oracle Racing
Port America's Cup
Muelle de la Aduana S/N
46024 Valencia
Spain

Dear Russell,

Thank you for your letter of 21 September. Frankly, we found your letter surprising, given that we have in good faith had ongoing conversations in which we have continually responded to your questions and concerns regarding the Protocol and explained why your interpretations of the Protocol are incorrect or actually have been addressed via our discussions with the 33rd Cup Competitors.

Regarding your specific points, all of which have been discussed with the Competitors:

1. It is simply incorrect to say that ACM and SNG may act arbitrarily or contrary to concepts of fair dealing, good sportsmanship or fair play. The Protocol is being amended to clarify that all regattas "will be conducted and Competitors shall compete in compliance with recognized principles of sportsmanship and fair play". ACM is required to comply with this requirement under Article 5.3, and this language otherwise covers SNG and CNEV. Also, ACM may not make amendments absent approval by SNG and CNEV, and absent approval, would have to go to the Arbitration Panel. Thus, the Protocol ensures a level playing field.
2. A Competitor may not be arbitrarily disqualified from the event for disputing the binding effect of the Protocol. The Protocol amendment empowers the Arbitration Panel to overrule a disqualification (hence, any disqualification is suspended during an appeal), with the obvious result that a disqualification would be to no effect and the Competitor would therefore not need to be "reinstated". There also is no restriction on the Arbitration Panel's ability to fashion any appropriate remedy.
3. With regard to the commercial regulations, no competitor, including the Defender and the Challenger of Record, knows what these regulations will be because they are currently in development by ACM – which is subject to the fair play requirement. GGYC, like other potential competitors, are free to await these rules before deciding to enter the competition – but that has no bearing on GGYC maintaining its lawsuit.
4. Regarding the appointment of officials, as already discussed, we intend to appoint experienced officials with whom you will be familiar. Also, any official appointed will otherwise be subject to amended Article 2.3 requiring good sportsmanship and fair play and also Article 5.4(a).

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5. SNG and CNEV may not amend the Protocol arbitrarily or unfairly. SNG and CNEV already have agreed to amend the Protocol to clarify that key rules relating to the Arbitration Panel will not be amended. Thus, Competitors are ensured of their right to resort to arbitration to resolve disputes relating to the Protocol, and these proposed amendments were the product of consultations with the Competitors. The position as to future Protocol amendments is now more favorable to challengers than when the 32nd Protocol was signed by GGYC in 2003 and again in 2004, or compared to any prior America's Cup regattas.
6. With regard to the design rules, we note that you support the new class concept. As you know, all the Competitors are involved in the design discussions, as was always our intention. As you also know, we have announced the appointment of a design rule coordinator. These steps were taken to allay any concerns that SNG was seeking or gaining an unfair advantage, and we understood that these steps met your concerns.

Based on the above, and the other issues we have discussed and resolved, it should be clear that we have heard and met your concerns – and that this has been without the involvement of a third-party. It is therefore time for GGYC to join the Cup series or not, but the continuation of a lawsuit to force Protocol changes is unacceptable. The spirit of the Cup and the Deed of Gift is that rules are discussed by those who are in the competition. Like GGYC, we continue to seek a resolution of this matter, but GGYC must acknowledge the steps that have been taken to address its concerns – as opposed to just repeating them in correspondence. The ball is in your court.

I look forward to hearing from you.

Yours sincerely,



Brad Butterworth
Vice President and Skipper
Team Alinghi

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