Olympic Events & Equipment

Monopoly and Competition Reviews

A submission from the Board

Purpose or Objective

To implement Council’s ‘in principle’ policy decision of May 2017 to ensure proportionate and regular reviews of Olympic equipment.

Proposal

1. Insert new Regulation 23.5 as follows:

Re-evaluations of Equipment for Olympic Events

23.5.1 In addition to the review processes in Regulation 23.1, the Board shall carry out re-evaluations of the equipment selected for Olympic equipment. The purpose of re-evaluation under this Regulation is to ensure that:

(a) competing equipment and competing manufacturers of existing equipment can bid to be selected for Olympic Events and therefore access the market on a fair and objective basis;

(b) reduce the risk of monopolies; and

(c) ensures manufacturers do not become complacent, remain price-competitive, produce high-quality equipment, and do not abuse their market positions.

23.5.2 Equipment selected for each Olympic Event shall be subject to re-evaluation every eight years (i.e. two Olympic cycles). However, the Board may set a different transitional timetable for initial re-evaluations following the adoption of this Regulation. The Board may amend the date of the subsequent re-evaluations in order to ensure re-evaluations are carried out in line with any other reviews undertaken under Regulation 23.1.

23.5.3 The Board shall ensure that the re-evaluation procedures:

(a) allow classes and manufacturers of other equipment suitable for the Event in question to tender for its use in the Event;

(b) use criteria which are open, fair and non-discriminatory;

(c) use criteria which are approved by the Equipment Committee and published publicly as part of the ‘invitation to tender’; and

(d) are approved by Council prior to publication.
23.5.4 Following the outcome of re-evaluation, the Board shall make a recommendation to Council to:

(a) retain the current Equipment;

(b) evolve the current Equipment; or

(c) select new Equipment.

The Board may also make any other recommendations to Council as it considers are necessary to secure compliance with Regulation 23.5.1 or any legal requirements on World Sailing.

Current Position

As above. There is no such Regulation at present.

Reasons

1. This submission introduces the proposed detailed Regulation changes needed to implement the “in principle” Olympic Equipment policy in May 2017.

2. The rules of international federations which impose conditions or restrictions on the supply or use of equipment to be used in events must comply with the competition provisions of EU law (Articles 101 and 102 of the EU Treaty).

3. Restricting the use of certain equipment can be justified for sporting reasons (such as providing sporting performance/spectator appeal, ensuring equipment used is fair and for safety reasons). Restrictions cannot be disproportionate or arbitrary.

4. World Sailing has a number of rules concerning the equipment that can be used in Olympic events. World Sailing decides what equipment can be used, enters into contracts, and has close scrutiny of the Olympic Classes (including their builders and manufacturers).

5. The rules governing which equipment can be used in Olympic events, and which suppliers are entitled to supply boats for Olympic events, have the potential to prevent/distort/restrict competition in the economic market. World Sailing must carefully monitor the market and the effect its decisions have.

6. World Sailing has a “dominant position” in the market under EU law. This arises because of World Sailing’s position as an international federation and its role and responsibilities towards sailing in the Olympic Games and more generally. This places a legal obligation on World Sailing not to abuse this position.

7. The Board, having taken specialist external advice in this area, is concerned that there is no mandatory regular review of equipment once it is selected. Even if the original decision was based on an open and fair evaluation, the longer the equipment is in place without review, the greater the risk of legal challenge as any monopoly continues.

8. There must be a mechanism which allows competing equipment/manufacturers to bid to be selected as equipment on a fair and objective basis. This will reduce the risk of continued
monopolies and ensures existing manufacturers do not become complacent or abuse their position.

9. If approved, the Board will set the initial round of reviews in line with the existing reviews due to take place in 2018.