

## Racing Rules of Sailing

### Case 78

A submission from the Board

#### Purpose or Objective

In November 2016, the Board appointed a working party to review Case 78. This arose from concerns regarding some racing behaviours that Case 78 created. This submission was developed by the working party to permit Council to debate possible changes to Case 78 and other proposals to address this matter.

#### Proposal 1

1. Amend the preamble in Case 78 as follows:

*In a fleet race either for one-design boats or for boats racing under a handicap or rating system, a boat may use tactics that clearly interfere with and hinder another boat's progress in the race, provided that, if she is protested under rule 2 for doing so, the protest committee finds that there was a reasonable chance of her tactics benefiting her final ranking in the event. ~~or her chances of gaining selection for another event or for her national team.~~ However, she breaks rule 2, and possibly rule 69.1(a), if while using those tactics she intentionally breaks a rule.*

2. Change Question 1 (b) and (c)

- (b) The protest committee finds that there was a reasonable chance that A's tactics would increase her chances of gaining selection for another event, **but not benefit her final ranking in the event.**
- (c) The protest committee finds that there was a reasonable chance that A's tactics would increase her chances of gaining selection to her national team, **but would not benefit her final ranking in the event.**

3. Change Answer 1 paragraph 1:

In circumstances (a), ~~(b) and (c)~~, A would be in compliance with recognized principles of sportsmanship and fair play. ~~because there is a sporting reason for her actions.~~

**In circumstances (b) and (c), A would break rule 2, and possibly rule 69.1(a).**

#### Current Position

As above

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### Reasons

1. By limiting the reasons to justify these tactics to benefiting the current event, the option to attend an event for the sole purpose of preventing another competitor from achieving a good result is removed.
2. In addition, this also means that the protest committee and other competitors do not need to know or have access to other documents such as national selection criteria. Such documents are often confidential and so access to them is problematical.

### Proposal 2 – Alternate to Proposal 1

1. Make no change to the pre-ambble.
2. Change Answer 1 to read:

In circumstances (a), (b) and (c), A would be in compliance with recognized principles of sportsmanship and fair play because ~~there is a sporting reason for her actions.~~ **her tactics had a reasonable chance of either benefiting her final ranking in the event or her chances of gaining selection for another event or for her national team.**

### Current Position

As above.

### Reasons

1. This proposal is an alternative to Proposal 1 and is less of a change from the current position.
2. It ensures consistency between the case pre-ambble and the answer.
3. It is more specific than '*a sporting reason*' in the current case, which has been used to justify some actions that have rather tenuous 'sporting reason'. An example was a competitor who had won the regatta, regardless of the last race results. They hindered a boat that could have finished second overall and the sporting reason given (and accepted by the Jury) was 'I wanted to practice those tactics'.

### Proposal 3

1. Change the last sentence of the case pre-ambble as follows:

However, she breaks rule 2, and possibly rule 69.1(a), if while using those tactics she ~~intentionally~~ breaks a rule.

2. Change Question and Answer 3 as follows:

#### **Question 3**

Would Answer 1 be different if, while using tactics that clearly interfered with and hindered B's progress in the race, A had ~~intentionally~~ broken a rule?

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### **Answer 3**

Yes. Whenever a boat ~~intentionally~~ breaks a rule **while using these tactics**, she also breaks rule 2, and possibly rule 69.1(a).

#### Proposal 3A

1. Replace the last sentence of the case preamble with:

However, she breaks rule 2, and possibly rule 69.1(a) if, after using those tactics over an extended period of time, she breaks a rule.

2. Replace Question and Answer 3 with:

### **Question 3**

Would Answer 1 be different if, after using tactics that clearly interfered with and hindered B's progress in the race over an extended period of time, A broke a rule?

### **Answer 3**

Yes. A also breaks rule 2, and possibly rule 69.1(a).

#### Current Position

As above.

#### Reasons

1. Proving intent can be very difficult. Competitors should be judged on their actions, not on their intentions.
2. This change will increase the risk taken by a boat adopting such tactics.
3. Now there is an option for the protest committee to penalize a breach of RRS 2 with either a DSQ or DNE there is some flexibility for the protest committee to match the penalty to the circumstances. Invoking RRS 2 is important as the possibility of redress becomes available to the protest committee.
4. If intent is proven, the option remains for the protest committee to penalise with a DNE under RRS 2 and, if thought necessary, to act under RRS 69.

#### Proposal 4

The Case 78 Working Party continues in order to develop non-binding advice to MNAs and other selection authorities when determining selection criteria. This advice would be limited to recommendations based on experience by World Sailing Race Officials of issues that arise during events of selection issues. The advice would be advisory only and it remains for each MNA to make its own decision on selection criteria.

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Current Position

None. There are no guidelines to MNA on selection criteria.

Reasons

1. Many of the issues identified in responses to the Case 78 Working Party are not issues with Case 78 itself, but with the selection criteria adopted by various selection authorities.
2. Without attempting to dictate selection policy and criteria to these authorities, some guidance, if adopted, would have a significant chance of avoiding behaviours that are seen to be undesirable.

Proposal 5

Request Racing Rules Committee to consider the possibility of an addition to RRS 24 to make it clear in the rules when hindering another boat breaks the RRS. An example of this would be:

*Add RRS 24.3: If reasonably possible, a boat shall not hinder another boat racing unless she does so for her own benefit in the event (or her selection/qualification for another event).*

Current Position

None. The RRS are currently silent on this matter and rely on RRS 2.

Reasons

Case 78 contains some important principles that are not obvious when reading the RRS. It is desirable that such principles are in the RRS as most competitors are far more aware of the RRS than the Cases.

*[A COPY OF CURRENT CASE 78 IS BELOW FOR REFERENCE PURPOSES]*

**CASE 78**

*In a fleet race either for one-design boats or for boats racing under a handicap or rating system, a boat may use tactics that clearly interfere with and hinder another boat's progress in the race, provided that, if she is protested under rule 2 for doing so, the protest committee finds that there was a reasonable chance of her tactics benefiting either her final ranking in the event or her chances of gaining selection for another event or for her national team. However, she breaks rule 2, and possibly rule 69.1(a), if while using those tactics she intentionally breaks a rule.*

**Facts for Question 1**

In a fleet race for one-design boats, boat A uses tactics that clearly interfere with and hinder boat B's progress in the race. While using those tactics, A does not break any rule, except possibly rule 2 or rule 69.1(a). B protests A under rule 2.

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**Question 1**

In which of the following circumstances would A's tactics be considered unsportsmanlike and a breach of rule 2 or of rule 69.1(a)?

- (a) The protest committee finds that there was a reasonable chance that A's tactics would benefit her final ranking in the event.
- (b) The protest committee finds that there was a reasonable chance that A's tactics would increase her chances of gaining selection for another event.
- (c) The protest committee finds that there was a reasonable chance that A's tactics would increase her chances of gaining selection to her national team.
- (d) The protest committee finds that A and a third boat, boat C, had agreed that they would both adopt tactics that benefited C and that there was a reasonable chance that A's tactics would benefit C's final ranking in the event.
- (e) The protest committee finds that A was attempting to worsen B's race or series score for reasons unconnected with sport.

**Answer 1**

In circumstances (a), (b) and (c), A would be in compliance with recognized principles of sportsmanship and fair play because there is a sporting reason for her actions.

In circumstance (d), both A and C would break rule 2, and possibly rule 69.1(a). In addition, by receiving help prohibited by rule 41 from A, C would also break rule 41.

In circumstance (e), A would break rule 2, and possibly rule 69.1(a) because, with no good sporting reason, her actions would clearly break recognized principles of sportsmanship and fair play.

**Question 2**

Would Answer 1 be different if the boats had been racing under a handicap or rating system and if A had been faster or more manoeuvrable than B?

**Answer 2**

No.

**Question 3**

Would Answer 1 be different if, while using tactics that clearly interfered with and hindered B's progress in the race, A had intentionally broken a rule?

**Answer 3**

Yes. Whenever a boat intentionally breaks a rule, she also breaks rule 2, and possibly rule 69.1(a).

USA 1991/282, revised extensively by World Sailing 2009 and 2013

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