

UIM Appeal Board

Decision

Concerning the Appeal of
Driver Muhammed Al Marri and Throttleman Jean Marc Sanchez, Boat
77, Victory Team

- Protestor -

against

the World Powerboat Championship Committee Decision from 21.10.2005
at Doha not to allocate 3 bonus points for using one set of Engines at the
2nd and 3rd round of the U.I.M. World Powerboat Championship in Trond-
heim

On the basis of the documents, the UIM Appeal Board's session from
22.10.2005 at Doha which was attended by

The body:

Kimon Papchrisoptoulos, Chairman

Harry Fabritius, Member

Rory Power, Member

on behalf of the Protestor

Gianfranco Venturelli

Testimonies:

Tony Hall

The UIM Appeal Board decided:

The appeal is upheld. 3 bonus points will be allocated to boat 77 for the using of one set of engines in the second round (05. – 07.08.2005) and third round (12. – 14.08.2005) of the World Powerboat Championship in Trondheim.

Grounds

I.

The WPC bonus point rule as published and communicated to the teams reads as follows:

“For the 2005 season, a team that runs an engine for two consecutive races with the primary seals unbroken will receive a bonus of 1.5 World Championship points per engine”.

Any unauthorised breaking of the primary seals will prevent the allocation of the bonus points.

It is important that engines are presented for scrutineering fitted with suitable drilled nuts in the various sealing points.”

At the second round of the 2005 World Championship which took place from 05. – 07.08.2005 in Trondheim the Appellant changed on Saturday 06.08.1005 both engines of boat no. 77 after having participated in the first practice on Friday 05.08.2005 due to a flooding of its engine room. At

06.08.2005 18.00 hrs the U.I.M. Commissioner issued a bulletin (no. 5) stating that Boat 77 and other Boats did not comply with the bonus point rule and that “the two races rule starts for these engines immediately.”

Boat 77 then participated with these sealed engines in the race on Sunday 07.08.2005 and in all heats of the third round of the 2005 World Championship which took place from 12. – 14.08.2005 and as well in Trondheim.

At 12.08.2005, the first day of the third round of the World Powerboat Championship the U.I.M. Commissioner who was motivated to clarify the rule due to various requests of the teams and issued bulletin no. 1 of that round which states under point 4 as follows:

“Engine 2-Race Bonus Points – Clarification of Qualifying Periods

The spirit of the rule is to reduce maintenance costs by running engines for two races without dismantling for replacement of major components.

- A race is considered to be the activities covering the first practice on Friday, through to the completion of the World Championship Round on the Sunday.
- Exchange of an engine within this time frame will result in bonus points being withheld, and the 2 race qualification period being restarted.
- If a boat partakes in some part of the event, but is excluded from completion because of accident or breakdown, the bonus points will be qualified or awarded at the end of the day.
- If an engine is changed in the free time between the two events, after the first race, no bonus points are awarded.

Please find attached as a draft an example of various patterns of engine changing and bonus points allocations.”

The official race results of the third round were posted, but did not mention any bonus points. Furthermore notices showing the overall classification regarding the overall points and the bonus points were published. A first set of this notice showed 0 bonus points for the Appellant. A second and corrected version showed that 3 bonus points had been allocated to boat 77 which was the decision taken by the U.I.M. Commissioner on that day. These notices have not been posted according to rule 323 as they were not signed by the OOD and did not state the time of posting.

After the third round it was discussed by the Race officials, WPCC members and its chairman as to whether bonus points should be allocated according to the bonus point rule or whether boat 77 did not comply with this rule. To resolve this dispute WPCC decided at the 2005 GA in Doha, that bonus points should not be awarded to boat 77 because they did not partake in the complete second and third round with one set of engines.

II.

The Appellant objects to this decision. He was of the opinion that, at least until the issuing of bulletin 1 on the 12th of August. The 2 races rule could not be interpreted in the way that to comply with it, one engine has to re-

main sealed from the beginning of the first practice until the end of the last heat of the second consecutive round/ event. Racing one sealed engine in two consecutive races (on Sunday) would be complying with the rule even if in the practice or pole position of this event other engines have been used says the Appellant.

The Appellant states, that if bulletin no. 1 of 12.08.2005 was issued earlier, boat 77 would have changed the set of engines after the second round to start a new period and then have used these engines in the third and fourth round. Because they were unable to act on bulletin 1, they were forced to install new engines after the third round according to their maintenance scheme and technical needs. This would mean they could gain bonus points firstly after having finished the fifth round.

The Appellant is of the opinion that WPC was not entitled to decide on the allocation of the bonus points and that the decision concerning the bonus points had been posted with the issuing of the overall result sheet.

III.

The appeal decision is to uphold, because the spirit of the rule does not allow in the specific case of the Appellant, the interpretation of the rule according to bulletin no. 1. as this would be an unfair disadvantage for the Appellant.

The wording of the 2 consecutive races rule as published initially allows different interpretations, one of which was published in bulletin no.1. In the Appellants view another interpretation is possible. Although being very restrictive the interpretation of the 2 race engine rule of bulletin no. 1 might have been applicable in the specific case of the Appellant if it had been communicated earlier to him. But prior to bulletin no. 1 on 12.08.2005 bulletin no. 5 was communicated to the Appellant on 06.08.2005 at 18.00 hrs stating that “the two races rule starts for these engines (i.e. the Appellants engines) immediately.” In this statement the Appellant found support in his opinion of the interpretation of the 2 consecutive races rule as it was not stated that the two consecutive races rule would start after the event prior to the next event.

In addition the wording of the 2 race engine rule leads to support of the Appellants interpretation, rather than to the interpretation according to bulletin no. 1. Therefore the Appellant trusted without being negligent in his own interpretation of the 2 race engine rule.

If he had been made aware of the restrictive interpretation according to bulletin no. 1. As he stated he would have acted accordingly and would have changed the engines after the second round of the WPC to be awarded with the bonus points after the fourth round. At the time of receiving bulletin no. 1 this was no longer possible. Because at a similar time as the inscription for the third round took place, the subsequent first practice of round three would take place.

Applying the 2 race rule with the restrictive interpretation of bulletin no. 1 in the case of the appellant would mean, that he could firstly be awarded with the bonus points after fifth round.

Due to all the aforementioned reasons, applying of the restrictive interpretation of bulletin no. 1 would be unfair, and therefore not in accordance with the spirit of the rule.

This does not mean that a change of interpretation of this rule for the future is in general forbidden. On the contrary such changes may be necessary to adapt the rules to new demands, or just to develop the application of the rules for the benefit of the sport.

The Appeal Board did not find that neither the first nor the second bonus point result had to stand as unprotested because neither of these notices had been posted according to rule 323.

(Signatures of the Appeal Board Members)