

July 16, 2018 (slightly modified January 16, 2019; changes in red)

TO: the US Sailing Team and its Coaches
FROM: Dave Perry
RE: revised World Sailing Case 78 (“match racing” within a fleet race)

Hi all...

As you may know, World Sailing Case 78 is the **Case** that discusses when a boat that is attacking another boat in a race (“match racing”) is breaking rule 2 (Fair Sailing). Up until the most recent revision, published in April of 2018, the Case said that it was OK for a boat to attack another boat if the reason for doing so was to win a country’s “selection series” when the country was using a couple of world events as the selection series/trials.

The Case has now been significantly revised. The intention of the changes is to try to eliminate the situation where a competitor ignores their overall position in an event/regatta and focuses solely on trying to beat a fellow countryman in that event, or tries to drive a fellow countryman down in the standings of the event, with no regard to their own finishing position in that event (“regatta”), in order to win **his/her** country’s selection series (“trials”).

In simplest terms this could be called “match racing within a fleet race.” And if the purpose/intent of the match racing is to improve the competitor’s “trials finish” as opposed to its “regatta finish,” then it breaks rule 2 and can result in the disqualification of the sailor from the race (which could be a non-excludable DSQ or an excludable DSQ) and could lead to a rule 69 (Misconduct) hearing and the removal of the competitor from the entire regatta.

I have copied the entire text of the Case below, with red font and red font cross-outs showing the changes from the previous edition.

This paper attempts to explain the revised Case 78 and the implications for competitors involved in a multi-event selection series, such as the upcoming US Olympic Trials.

As the changes were only published **in April 2018**, there is no precedent for applying the interpretations in the Case. So at this point all we can do is apply our best judgment on what it means and how an International Jury would decide a protest based on this Case.

What I am writing below is purely my personal opinion.

Summary of the interpretation in Case 78...

The gist of the interpretation is that it is OK to maneuver/act in a race, even if it results in you losing places/distance in the race, **if** your intention/strategy for doing so is to help yourself finish better in **that** event/regatta and your actions had a reasonable chance of succeeding. I will call that your “regatta finish.”

Put the other way, it is a breach of rule 2 (Fair Sailing), and possibly rule 69.1(a) (Misconduct), if you use tactics that clearly interfere with or hinder another boat’s progress in a race and those tactics would **not** benefit your own overall finishing position in **that** race/event. One reason you might do that is to try to win the US Olympic Trials. I will call that your “trials finish.”

Some technical points...

- 1) If Boat B felt that Boat A was attacking them for the sole purpose of causing them to finish worse in an event with no regard to A's overall finishing position in that event ("trials finish"), B would protest A under rule 2 (Fair Sailing). This would be decided by the protest committee/Jury at the event (could be an International Jury). Rule 63.1 requires the protest committee to hold a protest hearing for this protest.
- 2) A protest under rule 2 requires the boat to hail "Protest" immediately after each incident of another boat "attacking" them (rule 61.1(a)). And if a boat does not hail "Protest," the protest committee is required to close the hearing (not hear the protest) by rule 63.5.
- 3) A boat cannot protest under rule 69 (Misconduct). However a protest committee can decide to call a rule 69 hearing to investigate a possible breach of misconduct (which could include a breach of rule 2), under rule 69.2(b). It can do this even based on information in an invalid protest.
- 4) There is no appeal from the decision of an International Jury (see rule 70.5). Additionally, a boat that was a party to the hearing cannot request redress based on the Jury's decision (see rule 62.1(a)), but it could ask the Jury to reopen the hearing under rule 66 (Reopening a Hearing) if significant new evidence became available after the hearing or if the party could persuade the Jury it made a significant error in judgment or procedure.
- 5) The assumption is that no other rules were broken in the process; otherwise there would be protests under those rules as well. And if it were found that a boat interfered with another and broke a racing rule in the process (which includes knowing you are OCS and not going back and restarting), that would go quickly to a rule 2 and likely a rule 69 matter (see Cases 34, 78 and 138).
- 6) If a Jury disqualifies a boat for breaking rule 2, the Jury can decide if the DSQ is excludable or not (see rule 2). And right now there are no Cases or places that discuss when a Jury would choose one option over the other. Furthermore, the Jury can decide to open a rule 69 hearing as well (see Case 138).
- 7) If a Jury decides that a boat's finishing score or place in a race or series has been or may be, through no fault of her own, made significantly worse by the action(s) of a boat that resulted in a penalty under rule 2, or a penalty or warning under rule 69.2(h), the Jury can give that boat redress (see rule 62.1(d)).

If you have any questions about this new Case or the technical points above, feel free to email me to discuss them.

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(more)

Some “What if...” scenarios...

To bring the meaning of this new Case into focus, here are some “what if” scenarios. I am thinking one way to describe these is: Green > Yellow > Red – where “Green” is likely that a Jury would not DSQ a boat under rule 2, and “Red” is likely it would do so.

The Jury decision will be largely influenced by what it decides the answer to this question is: “why did the boat do what it did?”

Therefore, in the protest hearing I am certain the Jury would ask that question to the competitors doing the action. If the answer is anything but “I was trying to finish as high as possible in the event, and here is how I thought my action(s) would help me succeed”, then the actions will move quickly into the Yellow/Red territory.

And of course, if the Jury suspects the competitor is lying, that presents a whole new area of concern for the competitor.

Again, what I am writing below is purely my personal opinion.

Before the starting signal:

- Boat A begins harassing, intimidating, distracting, blocking Boat B at around 3:00 to the starting signal:
 - Yellow to Red (depending on the severity and impact of the actions) unless the intent is to help Boat A do better in that regatta, such as in the last race where Boat A needs to affect Boat B’s result.
- Boat A follows Boat B in on port on the final approach to setting up for the start and tacks to leeward of her when B tacks to starboard.
 - Green (in general, unless Boat A is clearly compromising her likelihood of having a good start)
- Boat A intentionally starts directly to leeward of Boat B and sails a VMG or “high mode” course after the starting signal. The result is that Boat B cannot accelerate well off the line and has a poor start as a result.
 - Green (in general, unless Boat A is clearly compromising her likelihood of having a good start)
- Boat A intentionally starts directly to windward of Boat B and sails a VMG or “low mode” course after the starting signal. The result is that Boat A rolls Boat B and causes her to drop back after the start.
 - Green (in general, unless Boat A is clearly compromising her likelihood of having a good start)
- Boat A starts to windward or leeward of Boat B and pinches or bears away excessively with the direct result of causing Boat B to drop back after the starting signal.
 - Yellow to Red (depending on the severity and impact of the actions on A’s race)
- Boat A intentionally tries to “push” Boat B to be OCS.
 - Green (in general, unless Boat A is clearly compromising her likelihood of having a good start)

Windward Leg:

- Boat A is preventing Boat B from tacking (pinning her) by being close to windward of her.
 - Green (in general, unless Boat A is clearly compromising her likelihood of having a good race)
- Boat A is preventing Boat B from tacking and carries her well past a layline or clearly to the unfavored side of the course.
 - Yellow to Red (depending on how clear it is that Boat A’s actions are detrimental to Boat A’s finishing position in the race/event)

- Boat A is preventing Boat B from tacking and Boat B bears away to open enough space to tack; Boat A bears away to continue pinning Boat B.
 - Red
- Boat A tacks on Boat B's wind.
 - Green (in general, unless Boat A is clearly compromising her likelihood of having a good race)
- Boat A tacks on Boat B's wind, Boat B tacks away, and Boat A tacks soon thereafter and continues to tack on Boat B's wind each time Boat B tacks.
 - Yellow to Red (depending on the frequency of the tacks and the effect on Boat A's race)

At Marks:

- Boat A slows and sets a "mark trap" for Boat B.
 - Red

Downwind Leg:

- Boat A sits on Boat B's wind.
 - Green (in general, unless Boat A is clearly compromising her likelihood of having a good race)
- Boat A sits on Boat B's wind, Boat B gybes away, and Boat A gybes soon thereafter and continues to gybe on Boat B's wind each time Boat B gybes.
 - Yellow to Red (depending on the frequency of the gybes and the effect on Boat A's race)
- Boat B tries to pass Boat A to windward and Boat A luffs to defend her position in the race.
 - Green (in general, unless Boat A is clearly compromising her likelihood of having a good race)
- Boat A is luffing Boat B for a longer duration or degree of course change than is reasonable to defend her position in the race.
 - Yellow to Red (depending on the effect on Boat A's race)

In General:

- Boat A is attacking Boat B (a fellow countryman) for the purpose of finishing as high as possible in the event. **As a result B finishes worse in the race.**
 - Green
- Boat A is attacking Boat B for the purpose of finishing higher in the event which may result in Boat A qualifying the country in a future event **such as the Olympics.**
 - Green
- Boat A is attacking Boat B (who has already sailed their throw-out race) with the intention of making Boat B have a worse result in the race for the purpose of finishing higher in the event, but in the process Boat C overtakes Boat A in the event.
 - Green (as long as there was no intention by Boat A to help Boat C finish higher in the event; **i.e., the strategy was legitimate ("fair") despite the execution not being successful**)

CASE 78 (revised and published April 12, 2018)

(red font indicates deletions and additions from the previous edition of Case 78)

Rule 2, Fair Sailing

Rule 41, Outside Help

Rule 69.1(a), Misconduct: Obligation not to Commit Misconduct; Resolution

*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.

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, **but would 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.**
- (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 circumstance (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).

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 by World Sailing 2009, 2013 and 2018