



MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

<http://www.motorsport.co.za>
e-mail orcar@motorsportsa.co.za

First Floor, No. 9 Monza Close (Formerly 108), Kyalami Park, Midrand. P.O. Box 11499 Vorna Valley, 1686
Telephone (011) 466-2440. Fax: (011) 466-2262 National Number: 0861 MSA MSA (0861 672 672)

COURT OF ENQUIRY 1072, HELD ON THURSDAY THE 7th JULY 2011 AT 09H00 IN THE ZWARTKOPS CLUB HOUSE, R55 PRETORIA WEST, LEKKERHOEKIE ERASMIA

Present

Piet Swannepoel	Court President
Christo Rheeders	Court Member
Vito Bonafede	Court Member
Jeremy Du Plessis	Clerk of the Course
Tony Crowder	Ass. Clerk of Course
Danie van Rensburg	Ass. Clerk of Course
Francois Jordaan	Club Steward
Leon Botha	Route Note Director
Whammy Haddad	Toyota
Glyn Hall	Toyota
Ian Small Smith	Greenfuel
Mike Barnard	VW
Jackie Schreiber	Timekeeper
Flip Wilken	Ford
Richard Leeke	MSA Rally Commission President
Theuns Joubert	Organising Committee
Conrad Rautenbach	Competitor No. 4
Drew Sturrock	Competitor No. 2
Elvene Coetzee	Competitor No. 13
Robin Houghton	Competitor No. 24
Carolyn Swan	Competitor No. 10
Joe Fourie	Deputy COC
Schalk van Heerden	Route Director
Steve Harding	MSA Steward
Robbie Coetzee	Competitor No. 52
Allan Wheeler	MSA Non Circuit Sporting Manager
Sonja Jordaan	MSA
Keith Coleman	VW
Mark Cronje	Competitor No. 24
Johnny Gemmell	Competitor No. 2
Jannie Kuun	Ass. Route Director
Francois Pretorius	CEO MSA
Joseph Sebogodi	MSA
Allison Atkinson	Court Scribe



Findings: Court of Inquiry 1072

At the outset, the Court was conveyed to investigate the Toyota Dealer Gauteng Rally held on the 10/11th June 2011 and to deal with amongst other things:



Motorsport South Africa is the only recognised motorsport Federation in South Africa

Directors: G. Nyabadza (Chairman), J.F. Pretorius (Chief Executive Officer), A. Taylor (Financial), J. du Toit, M. du Toit, P. du Toit, D. Lobb, E. Mafuna, S. Miller, N. McCann, C. Pienaar, B. Sipuka, B. Smith, D. Somerset, L. Steyn, P. Venske – Hon. President : T. Kilburn, Mrs. B. Schoeman

1. Confusion at the start of stage 1 inasmuch as certain competitors had reconnoitered the stage on foot;
2. Shortcutting and deviation from the prescribed route set out in the official "Road Book" by competitors leading to a number of protests and Appeals; and
3. General event organisation and organisational deficiencies as alluded to in the Stewards report.

The nature of the hearing and the requirement for a facility large enough to accommodate all affected parties resulted in the hearing taking place at the Zwartkops Club House on the 7th July 2011.

The Court members, Messers Swannepoel, Rheeders and Bonafede were introduced and there was no objection to the composition of the Court, which proceeded.

The Court observed that the hearing was in itself unique. The nature of the Court's mandate, in being asked to investigate what essentially amounted to the conduct of every competitor involved in an event, as well as the actions of both officials and the event organiser would in itself have presented a daunting challenge. This situation, allied to the plethora of protests and appeals related to various aspects of the event, have presented a variety of challenges which the Court has individually addressed as set out below.

CONFUSION AT THE START OF STAGE 1 COMPETITORS RECONNOITERING THE STAGE.

The Court was presented with evidence from various parties all which pointed at the fact that competitors Gemmel and Rautenbach had reconnoitered the stage on foot; having requested and obtained permission to do so from the stage Marshall. In the evidence presented, it appeared that there was some confusion regarding the stage and the above mentioned competitors had deemed it appropriate to reconnoiter the stage on foot. This culminated in the request directed at the relevant Marshal. The competitors contended that the permission so obtained amounted to an instruction from an official which they were obliged to fulfill

The Court heard further evidence from Mr Flip Wilken that the reconnoitering on foot of a stage was not permissible under the strict provisions of the rules governing Rally Competitions, namely Regulations 193, 8.2.2 and 14.1. These provisions are peremptory, not susceptible to a liberal interpretation and hence; no latitude stands to be afforded to the competitors concerned. Under the circumstances the argument advanced by the competitors, namely that they had merely carried out a lawful instruction when they reconnoitered the stage on foot, falls to be rejected.

Accordingly and in respect of the first aspect, the Court finds as follows:

FINDING:

1. Competitors Rautenbach (vehicle 4) and Gemmel (vehicle 2), and their co-drivers are excluded from the results of round 4 of the 2011 SA Rally Championship in terms of SSR 193, 14.1 read in conjunction with SSR 193, 8.2.2.

SHORTCUTTING AND DEVIATING FROM THE PRESCRIBED ROUTE BY COMPETITORS LEADING TO A NUMBER OF PROTESTS AND APPEALS.

The second aspect of the hearing related to, what at best can be described as an allegation of widespread course cutting by competitors in the event. The Court heard evidence from various parties which sought to explain why and how the situation had arisen. The Court concluded that a combination of a variety of factors conspired to culminate in the unfortunate circumstances.

The Court was left with voluminous quantities of documents, raw video footage and other electronic data, such as GPS tracking to consider. In this regard, and as it is entitled to do under GCR 220, the Court procured the assistance of various experts in diverse fields whose input was greatly appreciated. The Court has exhausted all avenues in assessing the information at its disposal and makes the following findings:

FINDING

With reference to the attached technical report it is clear that although a large volume of technical data is available, this data has proven not to be sufficiently accurate and thus could not be used in support of any findings such as were required to be made in this instance. At the outset of this matter, certain of the Court members had expressed misgivings about the integrity of the tracking system. Upon a proper analysis of the data, those misgivings have now been proven to have been correct. In the premises the Court sets aside any and all penalties imposed for short cutting as imposed by either the Clerk of the Course or Stewards of the event as the case may be.

This type of technical data logging could undoubtedly prove to be of significant benefit in the future. However the current system is not reliable enough and the Court recommends that the Rally Commission investigate the reasons for the inaccuracy and variation of the tracking system, as well as the contractual basis of the acquisition in order to determine whether the system requirements had been accurately defined and whether the system ultimately purchased satisfies the contractual requirements.

The allegation that the majority of competitors could have deviated from the route is not without merit. In fact, at the hearing, there appeared to be general consensus amongst those present that the preponderance of competitors had in one or more respects and instances departed from the prescribed route. However, from the evidence at its disposal, the Court is unable to make any conclusive finding in this regard. The Court was however satisfied that the data at its disposal and the "pace notes" related to the event may have differed in certain respects.

The Court recommends to MSA and the Rally Commission that Mr. Leon Botha's role in the preparation and supply of "pace notes" be addressed at the earliest opportunity. The apparent discrepancies between the "Road Book" and the "pace notes", the availability of these respective resources and the inconvenience which results therefrom not only appears to be in conflict with the rules, but appears to be exclusively responsible for the maladies which characterised this event.

The Court further recommends to the Commission and to National Rally organisers that only routes where short cutting can be practically limited be considered for future use. The current situation has demonstrated that there is limited prospect of monitoring the transgressions of competitors from a technical point of view, and clearly insufficient manpower is available to monitor their activities. In a nutshell and given the current situation the Court believes that prevention is better than cure.

The Court recommends that the Rally Commission urgently and clearly document a system which will regulate public footage and lighting of the Rally Series. The regulations regarding the availability of camera footage requires revision so as to enable the Rally Commission to have full use of all camera footage from all competitors. The Commission should also investigate the compulsory installation of video cameras in all competing cars such as used in the current Production Car series.

The Court orders that the Rally commission reviews its rules with regards to reconnaissance and proposes that all SA Rally Championship events rules are aligned with prevailing International standards, an example of which would be full reconnaissance

GENERAL EVENT ORGANISATION AND ORGANISATIONAL DEFICIENCIES AS ALLUDED TO IN THE STEWARDS REPORT.

The final aspect of the hearing related to the organisation of the event. Evidence was presented by the Series Steward and additional evidence was submitted by Mr Leon Botha. The Organising Club submitted that in its opinion the event had been a success and was largely without incident.

The Court however is unpersuaded and makes the following finding:

FINDINGS

The Organising Club (PMC) was remiss in not timeously or at all finalising the itinerary of certain stages. It appears that it failed to at all recognise the ease with which competitors could abuse the rules regarding the following of the prescribed route and hence also failed to provide any judges of fact to monitor these eventualities.

The Organising club is hereby fined an amount of R20 000.

PROTESTS AND APPEALS

In the course of the hearing, the Court was called upon to adjudicate a number of protests and Appeals. It appears that in certain instances protests and Appeals related to the event were withdrawn prior to the hearing, as the parties were satisfied that the issues would be addressed in the course of the hearing. Given the content of the outstanding protests and Appeals which the Court was presented with, the Court finds that all outstanding protests and Appeals have been adequately addressed in terms of these findings and rulings.

However, it would be remiss of this Court not to comment upon the general behaviour of teams and competitors in this event. Rallying is a competitive division of motorsport in which events have been decided by fractions of seconds in the recent past. In the course of the hearing, several teams alluded to breathtaking amounts, running into millions of Rands, being spent on the sport. It is of little surprise therefore, that the sport generates high public interest and that the various manufacturers, teams and competitors are anxious to derive every advantage possible in order to prevail over one another.

In this instance however, significant shortcuts were deliberately taken by the preponderance of competitors which culminated in time benefits amounting to as much as 40 seconds in a single stage. The competitors so involved are aware of their actions and it is lamentable that rather than conceding their default, this Court was left to resolve the Gordian knot while it had at its disposal for this purpose technical data of dubious quality and questionable probative value.

The teams and competitors should realise that the rulings of this Court do not at all constitute an absolution from fault in this instance. The competitors concerned have only escaped severe sanction consequent upon the unacceptable quality and unpersuasive evidentiary value of the evidence at the Court's disposal. There is no doubt that the deplorable conduct of the competitors concerned has severely brought the sport into disrepute.

MSA is directed to record that the Court hereby expresses its utmost disapproval of the conduct concerned and further, that if any similar contraventions should ever serve before a duly constituted Court in future, the transgressors may expect that the maximum penalties available under the GCR's will be imposed.

The Court orders that MSA MANCOM meet and resolve the issue of the forfeiture and or return of Appeal and Protest fees in this matter.

RIGHTS

All parties are advised of their rights

These findings distributed at 13:20 on 11th August 2011