



MOTORSPORT SOUTH AFRICA NPC

Reg. No 1995/005605/08

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MSA COURT OF ENQUIRY 1222

HEARING HELD AT THE MSA OFFICE IN CAPE TOWN AT 18H00 ON 26th AUGUST 2019

Present:	Steve Miller	-	Court President
	Lance Isaacs	-	Court Member
	Claudio Piazza-Musso	-	Court Member
	Danie van Niekerk	-	Competitor
	Brian Hoskins	-	Overall Clerk of the Course
	John Green	-	Clerk of the Course for Clubmans
	Pieter Smal	-	Chief Scrutineer
	JP Momple	-	Specialised Technician
	Ian Long	-	Chairman Clubmans
	Dennis Agnew	-	MSA Steward
	Guy Moat	-	Club Steward
	Gavin Cerff	-	WPMC Chairman
	Ernest Roos	-	Witness
	Wayne Wilson	-	Clubmans Member
	Cedric Burger	-	Clubmans Member
	Clint Rennard	-	Clubmans Member
In attendance:	Lizelle van Rensburg	-	MSA Sport Coordinator

INTRODUCTION:

The President introduced the Court members.

No objections were raised over the composition of the Court.

The President provided a brief overview of the events leading to this Court of Enquiry. Testimony was sought and heard and the Court adjourned to deliberate.

1. The technical compliance of competitor Danie van Niekerk's Clubman's race car at the WPMC Powerseries event held at Killarney on 6 July 2019.

A "de novo" review of the original technical inspection report and its findings was undertaken by the members of the Court.

It is the Court's view that, whilst the report raises questions around the adequacy of the car's construction and preparation (and the standards of annual scrutiny undertaken by the Clubman's Association), the modifications undertaken by the vehicle's constructor met the

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sport & recreation
Department:
Sport and Recreation South Africa
REPUBLIC OF SOUTH AFRICA

Directors: A. Roux (Chairman), A. Scholtz (Chief Executive Officer), A. Taylor (Financial), F. Alibhai, R. Beekun, FC. Kraamwinkel, G. Hall, A. Harri, Dr G. Mills, E. Murray, M. Rowe, R. Schilling, Ms M. Spurr, S. Themba, S. Van der Merwe

requirements demanded by the Clubman's Associations' Regulations and Specifications, save for one.

The crux of the initial inspection and subsequent Courts revolves around the legality or otherwise of the vehicle's C-pillar.

Regulation 19.2.2 of the W Cape Regional Clubman's Championship Regulations and Specifications states "C-pillars must remain of the original material used on the body. C-pillar is defined as the outer skin above the bottom window line."

Competitor van Niekerk's cars' C-pillar conformed to the profile specified in the regulation, above. However, the outer skin comprised of composite material, which is specifically prohibited by regulation 19.2.2.

However, it is apparent that a disconnect exists between the intent of this rule and its formal expression. If the intent is to ensure that the C-pillar is connected to the body of the car in such a fashion as to ensure the structural integrity of the body shell, this intent is undone by its current expression.

Furthermore, the intent behind the phrase "original material" is also unclear and open to interpretation. It is not clear whether this rule is meant to suggest that the original material of the body shell "as it left the factory" must remain intact, or that the C-pillar must be of a material the same as "the original type of material", i.e. steel repair replacing steel repair, but not allowing for the substitution of the original material with another.

Under either interpretation, using a composite material in the place of the original c-pillar, or the original material of the C-pillar, the car falls foul of this technical rule.

Accordingly, the Court finds:

- a. That the car was NOT technically compliant.
 - b. That the Clubman's Association is recommended to review both the intent and the wording their technical regulations as a matter of urgency to bring clarity to competitors and technical assessors in future.
 - c. Finally, that the Clubman's Association should give thought to appointing a permanent Technical Representative and tasking this individual or group with thoroughly inspecting ALL participants' vehicles to ensure requisite levels of construction and safety, as well as technical compliance. It is clear that the current "self-regulation" approach has run its course and the process needs to be improved to ensure on-track safety and off-track inter-competitor harmony.
- 2. What, if any, action should be taken against competitor van Niekerk should the race car be found to have been technically non-compliant.**

Competitor van Niekerk's car was found to be in breach of the regulations. It is clear that this transgression is not recent – it is common cause that the car as presented has carried this technical defect for a number of years.

Accordingly, the Court decided:

- a. To impose a retroactive penalty. Competitor van Niekerk will forfeit any and all points accrued on the race day of 6 July 2019 and all points from the previous race meeting.
- b. No further penalty will be levied provided competitor van Niekerk restores the vehicle to full technical compliance. Although he attests that this has occurred the Court orders that the vehicle be re-inspected by a competent group of technical scrutineers, the composition of this body and the time of inspection to be determined by the Clubman's Association. It must, necessarily occur timeously and before the next race meeting to ensure competitor van Niekerk is not prejudiced.
- c. The Court instructs that an invitation to this inspection should be proffered to all competitors in competitor van Niekerk's racing class, and the inspection should be open to those competitors.

In the spirit of fairness, should they wish to avail themselves of the opportunity to view and comment on van Niekerk's car, they are obligated to deliver their own cars for the same scrutiny by the same Technical team at the same time. Any comments and opinions should be recorded and reviewed for saliency, and may be acted upon by the Technical group, at their sole discretion.

It is hoped that this mechanism will remove any further grounds for speculation about the legality of van Niekerk's vehicle and should serve to underline the minimum standards required for all competitors' vehicles to adhere to in future.

- d. That upon the car receiving a clean bill of health competitor van Niekerk is free to resume racing.

3. Allegations of a boycott

There is ample social media evidence, personal testimony, and the paucity of entries to suggest that, on balance of probability, a boycott was both formulated and acted upon by a significant number of Clubman's competitors.

The Court has an obligation to act under these circumstances. Boycotts are immensely damaging to short-term relationships with circuit owners, promoters and sponsors, and the long-term health and viability of motor sport in general.

GCR 226 viii) clearly outlines the obligations of Associations and sets out the scale of penalties applicable.

Accordingly, The Court decided:

- a. To impose a R10,000-00 fine on the Clubman's Association and its members for their boycott action.
- b. Such fine to be suspended for a period of 6 months, provided no further boycott activity is implemented.

- c. That the intent of this “sword of Damocles” is not to punish the Association, but rather to serve as a stimulus to them to more creatively and constructively air and resolve their grievances, and to encourage them back onto the race track.

It is not clear to the Court that competitor van Niekerk’s car was the sole reason for this boycott. There appears to be a raft of grievances held by the Association that need airing with the WPMC, and conversely there appears to be a perceived lack of communication and basic respect from WPMC toward the Association and its members.

These matters fall outside of the remit of the Court. It is nonetheless clear that swift action needs to be taken to ensure better communication between the parties and start along the path to resolution of the issues niggling competitors.

All parties are reminded of their rights in terms of GCR 212 B.

These findings are published via email on the 28th August 2019.

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