

CHALLENGER OF RECORD & DEFENDER

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Interpretation 059

of

AC75 Class Rule Version 1.16 issued 30th September 2020

Rule References:

- 32.5 Interpretations shall be based on the following principles:
- (a) interpretations shall consider only the words in this **AC Class Rule**, not their possible intent;
 - (b) where wording is ambiguous, the most reasonable and natural interpretation of the written words shall be taken;
 - (c) interpretations shall not contradict any part of this **AC Class Rule** unless a part thereof is found to directly contradict another part, in which case a part that refers to more detail shall take precedence over a part that is more general; and
 - (d) where, after the above Rules are applied, there remains ambiguity or contradiction as to whether a particular feature is permitted, an interpretation shall be permissive.

Context:

Since this RFI is concerned with the interpretative consequences of contradictions (either between **RC** interpretations and the **AC75 Class Rule**; or within the **AC75 Class Rule** itself), reference is made to some OED definitions of the word "contradiction":

4.b. Logical inconsistency or incongruity.

5.a. A statement containing propositions one of which denies or is logically at variance with the other; also a contradictory proposition. c1705 G. Berkeley *Commonplace Bk.* in A. C. Fraser *Life & Lett.* G. Berkeley (1871) 467 Contradictions cannot be both true.

Also as an introductory comment, in a case of ambiguous wording Rule 32.5(b) requires "the most reasonable and natural interpretation" of that wording. Since it is the **RC** from whom interpretations are sought, such interpretations will presumably be those viewed by the **RC** as the "most reasonable and natural" - in other words, the subjective judgement of the **RC**.

It is an inherent feature of a subjective interpretation that it is always debatable.

In a case rule where 32.5(b) is invoked, and the subjective selection by the **RC** of its preferred "most reasonable and natural interpretation" will give rise to a contradiction with the objective wording of the **AC75 Class Rule**, a contradiction is present, and therefore either lets in the "permissive" application of paragraph (d) of Rule 32.5 or must be changed to comply with rule 32.5(c).

Questions:

1. Does the **RC** agree that paragraphs (a) to (c) of Rule 32.5 must be applied in parallel, and that there is no order in which they shall be applied? If not in either case, please advise why not, and for what reason(s)?
2. When resolving ambiguities in any **AC75 Class Rule** wording, by selecting the interpretation which seems to the **RC** to be most reasonable and natural in accordance with paragraph (b) of Rule 32.5, does the **RC** agree that it must simultaneously have regard to paragraph (c) of the Rule, and must not adopt an interpretation that contradicts the **AC75 Class Rule**? If not in either case, please advise why not, and for what reason(s)?

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3. Further to preceding question 2, if in seeking to resolve ambiguities in accordance with paragraph (b) of Rule 32.5, the **RC**'s selected most reasonable and natural interpretation of the wording introduces contradiction of another part of the **AC75 Class Rule**, is the **RC** itself non-compliant with its interpretative obligations under Rule 32.5?
 - a. If not, please advise why not, and for what reasons?
 - b. If so, what is the effect (if any) of an **RC** interpretation that is non-compliant with any part of Rule 32.5?
4. When invoking rule 32.5(b) by choosing a self-selected "subjective" most reasonable and natural meaning, does the **RC** agree its choice is constrained/restricted/precluded if it runs into a contradictory provision of the "objective" **AC75 Class Rule**, as stipulated in rule 32.5(c). If not, please advise why not, and for what reason(s)?
5. When invoking rule 32.5(b) and the self-selected "subjective" most reasonable and natural meaning creates a contradiction with another rule (and thus infringes rule 32.5(c)), does the **RC** agree that rule 32.5(d) must be invoked? If not, please advise why not, and for what reason(s)?

Interpretation:

Protocol article 21.1 states that decisions of the **Rules Committee** within their jurisdiction "will be final and binding."

Protocol article 21.2 a) gives the **Rules Committee** the authority to interpret the **AC75 Class Rule**.

AC75 Class Rule 32.7 states that interpretations issued as final cannot be modified unless all **Competitors** agree to such modification.

AC75 Class Rule 32.5 describes the principles of interpretation to be used by the **Rule Committee**. Rule 32.5 is instructive to the **Rules Committee**, and informative for **Competitors**.

Under the interpretive authority given to the **Rules Committee** under the **Protocol**, the authority for interpreting the **AC75 Class Rule** lies with the **Rules Committee**, including the determination of whether any interpretation of a rule contradicts another rule in a way that is not permitted by rule 32.5(c).

The terms "subjective" and "objective" mentioned in this Request for Interpretation do not appear in the **AC75 Class Rule** and are not applicable in describing either the words of the Rule or interpretations of the Rule as issued by the **Rules Committee**. The **Rules Committee** interprets the Rule as required by the **Protocol** and directed by the **AC75 Class Rule**.

The **Rules Committee** does not substitute the judgment of any **Competitor** for their own and recognizes their own responsibility to comply with the Rules.

The fact that an interpretation does not agree with a specific **Competitor** input or opinion does not make the judgment of the **Rules Committee** in making that interpretation a "subjective" determination.

Answers:

1. No. There is no requirement in Rule 32.5 to apply clauses a) to c) in parallel. The clauses must be applied according to their terms. As a matter of fact, letters a) and b) are mutually exclusive, if the wording of the **AC75 Class Rule** is clear (letter a), then letter b), "wording is ambiguous" does not apply. Clause (a) will apply in all cases. Clause (b) applies where the wording is ambiguous. Clause (c) arises where there is a contradiction (including where a contradiction is identified as the result of an interpretation, including the application of (b)).
2. No. They must be applied according to their terms. If there is an ambiguity, and that ambiguity can be resolved under (b) and does not create a contradiction, then there is no need to apply (c). However, if an interpretation identifies a contradiction (whether on application of (b) or otherwise), then that

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contradiction is to be resolved by the specific prevailing over the general under (c). The provisions might be applied together, or they might not; it depends on the question before the **Rules Committee**.

3. No. It is possible that application of (b) to resolve ambiguity results in the identification of a contradiction in the **AC75 Class Rule**. If necessary, then, that contradiction is to be resolved by application of (c) (i.e. specific prevails over the general), and if it cannot be resolved in that way, then (d) applies.
4. The words “subjective” and “objective” are not mentioned in the interpretation requirements of Rule 32.5. See interpretation section and answers above for further guidance.
5. As stated in answer 4 above, the term “subjective” is not part of the **AC75 Class Rule**, and does not apply to interpretations of the **Class Rule** issued by the **Rules Committee**, nor does it apply to the Rule-defined processes used by the **Rules Committee**.

The question includes indefinite assumptions.

END