



36TH AMERICA'S CUP

AMERICA'S CUP ARBITRATION PANEL

ACAP36/17

IN THE MATTER

of the Protocol
governing the 36th America's Cup

IN THE MATTER

of an Application by
Circolo della Vela Sicilia ("**CVS**")
Luna Rossa Challenge Srl ("**Luna Rossa**")
Challenger of Record 36 Srl ("**COR36**")

hereinafter altogether the "**Applicant**"

In relation to Event Branding Requirements

14 January 2021

AMERICA'S CUP ARBITRATION PANEL

Case No. ACAP36/17

FINAL ORDER (on the merits)

and

DIRECTIONS 03 (regarding costs)

PROCEDURAL HISTORY

1. On 11 January 2021, the Panel has issued a Preliminary decision (ACAP36/17-01) in which it ordered as follows:

*"13. The Panel is however mindful of the urgency and importance of the matter as well as of the legitimate interests of the Title Sponsor. As proposed by the Rules Committee, COR and ETNZ, the Panel invites the Competitors to endeavour to agree on a practical solution to the present dispute. To that effect, the Panel grants the Competitors until **6pm (New Zealand time) on 13 January 2021** to find an agreed solution, working together with the Rules Committee. Should no agreed solution be found by that time limit, the Panel will issue a final decision.*

14. This preliminary decision shall remain confidential until an agreement is found and the terms of any such agreement conveyed to the Panel by the Applicant, or a final decision is issued by the Panel".

2. On 13 January 2021, COR communicated to the Panel a document containing the terms of a "practical solution" (the "**Agreement**") signed COR and countersigned by Ineos Team UK and NYYC-American Magic, but not by ETNZ. The terms of the Agreement are the following:

Dear Competitors,

We refer to the Preliminary Decision dated 11 January 2021 of the AC36 Arbitration Panel in the matter ACAP36/17-01.

The Panel has invited the Competitors, mindful of the urgency and importance of the matter as well as of the legitimate interests of the Title Sponsor (which rights may otherwise be frustrated), to endeavour to agree on a practical solution to the present dispute.

Following consultation with the Title Sponsor, and the suggestion of American Magic and Ineos Team Uk, the Challenger of Record submits the following practical solution:

- (i) Amend the section related to the mainsail and the headsail of the event branding issued with COR/D Notices 16 and 19 as per attached exhibit 1.
- (ii) all Competitors agree that pursuant Article 30.1 of the AC 75 Class Rule, the Rules Committee shall incorporate COR/D Notice 16 as amended, into the AC 75 Class Rules.

We would be grateful if you could countersign a copy of this letter and return it to us in sign of acceptance.

With kind regards.

3. On the same day, the Panel Chairman had contacts with Russell Green on behalf of ETNZ, who submitted that the Defender was inclined to accept the Agreement if the Rules Committee also approved it. Contacts were then in course with the Rules Committee to that effect.
4. Also on 13 January 2021, upon COR's request for a time extension, the Panel issued Directions 02 through which it granted "*to the Competitors until **7pm (New Zealand time) on 14 January 2021** to confirm that the Agreement has been signed by all Competitors and for the Rules Committee to confirm that it has been incorporated in the Class Rule*".

5. On 14 January 2021, COR sent to the Panel “*the letter of agreement* [i.e. the Agreement] *signed by all Competitors including the Defender*”.
6. Also on 14 January 2021, pursuant to Class Rule 33.1 and following a unanimously agreed amendment, the Rules Committee issued “AC75 CLASS RULE AMENDMENT #26” by which a new AC75 Class Rule 30.2 was added pursuant to which:

“30.2 The yacht shall comply with the Event Branding Requirements included in Appendix I”.
7. The Panel notes that a settlement has been reached on all ACAP36/17 issues (with the exception of costs) and that, subject thereto, the dispute is therefore resolved.

COSTS

8. The Panel is mindful to decide that COR shall bear half of the Panel’s costs and that the other Competitors shall each bear 1/3 of the other half of the Panel’s costs, unless one or more of the Competitors submit otherwise, with reasons, **within 5 days of this final order**. A final decision on costs will be taken by the Panel once this time limit has passed.

ORDER

9. As a result of the aforesaid:
 - a. This matter is resolved and the case is therefore closed following agreement between the Competitors as approved by the Rules Committee.
 - b. The confidentiality order contained at §14 of the Panel’s Preliminary decision ACAP36/17-01 is lifted.
 - c. A final decision on costs will be taken by the Panel in due time.

David Tillett, Graham McKenzie, Henry Peter
36th America’s Cup Arbitration Panel