

**IN THE MATTER of the Protocol Governing the 34th
America's Cup**

and

**IN THE MATTER of a Notice of Protest by the
America's Cup Event Authority in respect of a
dispute with Emirates Team New Zealand
representing the Royal New Zealand Yacht
Squadron.**

Request for Mediation of a Dispute

18th July 2011

Background

1. On the 13th of July 2011 the America's Cup Event Authority submitted formal notice to the Jury of a protest in accordance with Article 15.10 of the Protocol against Emirates Team New Zealand as the representative team of the Royal New Zealand Yacht Squadron ("ETNZ").
2. ACEA believes that ETNZ is in breach of Article 51.1 of the Protocol which requires all Competitors to use the domain www.america'scup.com as its sole online presence by 1 July 2011.
3. ETNZ denies it is breach of Article 51.1 of the Protocol and claims that ACEA is in breach of its obligation by 1 June 2011 to provide Competitors with as much space as they reasonably require within the website for exclusive use and control of all all their content. ETNZ claim that this obligation is a condition precedent to a Competitors compliance under Article 51.1.
4. In its notice to the Jury ACEA referred to discussions with ETNZ which are ongoing but has also advised it is preparing a full application to the Jury to be filed this week.
5. ETNZ considers this is a dispute suitable for mediation in the first instance rather than being considered by the full five person Jury.

Jurisdiction

6. Under Article 15.4 of the Protocol the Jury is empowered to act both as a jury and as an "arbitral body" to resolve disputes. Under Article 15.12 of the Protocol it is specifically empowered to act as an arbitration body.

7. As there is no specific reference to Mediation in the Protocol or the Jury Rules of Procedure published on the 25th of May 2011 the consent of both parties to the dispute and the Jury is required to such a process.

Dispute Suitable for Mediation

8. The dispute is of a contractual commercial nature not involving the yacht racing rules or rules which have usually governed the America's Cup in the past.
9. The difference of opinion relates to website content and specialist technical issues not necessarily understood by those without the appropriate technical expertise in the structural aspects of websites.
10. The dispute relates to a few key issues which should be capable of resolution with further discussions and negotiations between the parties and a mediator will considerably assist such discussions.
11. A mediation will resolve the dispute in a much less costly manner than a full five person Jury.

Mediator and Place of Mediation

11. A single mediator is proposed, to be nominated by the Jury and accepted by the Parties.
12. Representatives of ACEA and ETNZ the Parties will shortly be in Cascais, Portugal for the first America's Cup World Series Regatta providing an opportunity for a Mediation to be undertaken in a timely manner at a single venue.

For and on behalf of the Royal New Zealand Yacht Squadron



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