

Dear Larry,

I am disappointed that we were not able to meet in Europe the first week of October, as it was agreed last time I came to visit you in San Francisco. I am not surprised thus, that after your meeting in Trieste you have decided to communicate by mail rather than face-to-face. I was hoping that we would avoid unnecessary interference to our discussions and work hand-in-hand toward a resolution to the current standstill.

I feel it is very appropriate that in your letter, you mention the 157-year history of the America's Cup and the Deed of Gift, as reference to the conduct of the current event. Alinghi, by winning the America's Cup twice on the water in 2003 and then again in 2007, is its legitimate Defender and has earned the right to organize the event.

The Deed of Gift is clear about under which rules and regulations the America's Cup should be raced. I quote the Deed: "These Ocean courses shall be practicable in all parts by vessels of twenty-two feet draught water, and shall be selected by the club holding the Cup; and these races shall be raced subject to its rules and sailing regulations".

You made it clear in your New York court proceedings that the Deed of Gift should be observed to the letter! Indeed for more than a year now, BMW Oracle and its club GGYC is holding the Cup hostage on the basis of its incorrect interpretation of the word "having" in one of its sentences: "having an annual regatta"! Nevertheless, at the same time you disregard some of its fundamental provisions such as the submission of a valid certificate for the vessel your team wishes to sail in the America's Cup and the submission of a custom house registry, as soon as possible. You have failed to fulfill this requirement for the yacht you just launched in Anacortes to race Alinghi in a one-on-one regatta for the America's Cup should the decision of the Appellate Division be reversed by the New York Court of Appeals.

While pursuing your legal strategy to secure a one-on-one match with Alinghi, your team's apparent PR strategy is to claim that the 33rd Protocol is "unfair and not allowing equal chances to all competitors". However, when, following the initial ruling of Justice Cahn, a meeting was organized at the Société Nautique de Genève (SNG) to agree on the terms of the Match, your team mandated a date for the regatta that allowed less time than that required under the Deed of Gift and would not have allowed Alinghi to build its vessel in time and therefore would have left us with no other possibility but to lose by forfeit.

You want us to believe in your letter that you support cost containment measures to facilitate the participation of more teams to the next America's Cup, but at the same time you want to revert to the 32nd America's Cup format! But the 32nd America's Cup to which you want to revert does not contain any of the cost containment measures your letter appears to support. You know better than anyone the cost of the last campaign and now you further increase these costs with, not only proposing a multi-challenger Cup requiring two full crews and the support staff for two boat testing, but at the same time continuing to build a giant multi-hull with its own dedicated additional personnel.

The format of the 32nd America's Cup was based on every team being allowed to build two yachts and therefore having two teams to internally test the relative performance of their yachts. What we are proposing with the Club Náutico Español de Vela (CNEV) as the Challenger of Record for the 33rd America's Cup is for every team to be allowed to build only one new yacht. Limiting competitors to a single yacht will have significant savings not only to construction costs, but particularly in reducing by almost half payroll costs, as fewer sailors, support and maintenance personnel will be needed.

Having said that, the format for the next Cup should allow teams to race each other prior to the America's Cup Match in order to raise their competitive level and develop the performance of their yacht.

If Alinghi is to build only one yacht like any other team, we need to be permitted to race against the very best teams in order to have equal chances in reaching the highest possible competitive level. Here again, your team supports continued exclusion of the Defender from the Challenger Selection Series, which would result in our team not being competitive. Furthermore, if the result of races against the Defender were not to count, the challengers would certainly spare their resources and not give Alinghi

the benefit of a hard fought race. Negating Alinghi the right to competitive sailing before the final Match of the America's Cup is just unacceptable.

The America's Cup has always been a sailing and design competition. The Version 5 yacht used for the last edition no longer offers enough design space for innovation to occur and for the sailing in the America's Cup to represent the pinnacle of our sport. This is why for the 33rd America's Cup the large majority of the sailing community has approved of a new class of yachts to be designed.

While BMW Oracle chose to pursue its legal challenge in New York, Alinghi, CNEV and the challengers established a process, which resulted in a new class rule. We clearly demonstrated our goodwill in giving to the sole discretion of the challenger the benefit of the choice of displacement for this new class of yacht. Today we need to restart this process since time has been lost and most teams want to make sure that no one has benefited from this delay in jump-starting the design process.

The new class rule – to be drafted by all entered teams – anticipates a fast and powerful monohull with excellent upwind performance and generous sail area for exciting downwind speed. It should be suitable for both match and fleet racing and would be designed for use at other racing events. The use of a new class rule will allow all teams, including those which have not participated in the 32nd America's Cup, a clean start. The concept for discussion with entered challengers is to design a modern new boat that is faster and more spectacular than the old V5 ACC but significantly cheaper than the AC90 defined in 2007.

BMW Oracle supports the Louis Vuitton Pacific Series! We remain concerned that this event has been designed to cheaply ambush the America's Cup and will damage AC Management's efforts to find a principal sponsor for the next edition. These concerns will be raised with both Louis Vuitton and the Royal New Zealand Yacht Squadron.

Like every other America's Cup team, Alinghi welcomes more competition on the water and any event that can offer such an opportunity. However, over the last year, since our victory in Valencia in July 2007, BMW Oracle's legal strategy has derailed our plan of an America's Cup in 2009. The ongoing delay has been to the detriment of the momentum we were able to achieve with the 32nd America's Cup and many teams, including Alinghi, are paying the price of your strategy.

Alinghi is continuing to promote a multi-challenger event with the many teams already committed to participate in the 33rd America's Cup. In the meantime, if you decide to drop your appeal and accept our invitation to participate in the next America's Cup under the 33rd Protocol then please join the other challengers and work with us to agree the new class and the other rules which will govern the 33rd America's Cup. The next step in this process is a meeting with all the entered challengers to be held 30 October at the SNG.

Larry, I hope that together, you and I can promote a solution along the lines of what I thought we had agreed in San Francisco. If you feel that we can meet in person and continue our discussions without any other interest but the future of the America's Cup at heart, I welcome the opportunity and I will make myself available as I have done in the past.

Ernesto Bertarelli