



# MOTORSPORT SOUTH AFRICA NPC

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## MERCEDES-BENZ ATK PRO SERIES - ESPORT TRIBUNAL HEARING EST001 PUBLIC BEHAVIOUR INVESTIGATION HELD VIA MICROSOFT TEAMS ON 6 JULY 2021 AT 18H00.

<b>PRESENT:</b>	Mr Wayne Riddell	-	Chairman for Tribunal (Appointed ATK/MSA eSport Senior Steward)
	Mrs Deanne Ballington	-	Tribunal Member
	Mr Hector North	-	Tribunal Member
	Mr Aldo Bellingan	-	Defendant
	Mr Jonathan Bentz	-	ATK Complainant
	Mr Vic Maharaj	-	MSA Sporting Services Manager
<b>APOLOGIES:</b>	Mr Warren Barkhuizen	-	CEO ATK eSports

### PREAMBLE

Motorsport South Africa ("MSA") is a body which governs motorsport in South Africa in accordance with its General Competition Rules and Appendices (GCRs) which are contained in a Handbook and which constitutes the terms of the contract between MSA and its licence holders.

The complainant and the defendant are licence holders.

The Sim Racing Series is regulated by MSA.

The exercise of the powers of MSA is described in GCR 66(i) & (ii):

**"The sporting power delegated to MSA by the FIA, CIK and FIM shall cause MSA to constitute appropriate bodies to exercise the executive and judicial powers and functions under these rules in accordance with the MSA Articles of Association and in terms of the sporting codes of the FIA, CIK and FIM.**

**Such judicial powers and functions (such as the hearing of appeals or the determination of the penalty to be inflicted for a breach of these rules) may be delegated to a tribunal or court consisting of not less than three persons appointed by MSA. The exercise of such judicial powers and functions shall**

***MOTORSPORT SOUTH AFRICA IS THE ONLY RECOGNISED MOTORSPORT FEDERATION IN SOUTH AFRICA***



Directors: A. Roux (Chairman), A. Scholtz (Chief Executive Officer), R. Beekun (Financial), Mrs. D Abrahams, A. Harri, M. Hashe, FC. Kraamwinkel, Dr G. Mills, C. Oates, R. Schilling, Ms M. Spurr, S. Themba

**be final and not subject to review except on appeal in accordance with these rules. Appeals shall be directed to MSA following the decision of a tribunal and to its National Court of Appeal against the decision of an MSA court finding.”**

## **INTRODUCTION**

The tribunal members and attendees were introduced to everyone logged in via a TEAMS link created for the hearing and no objections were raised against the composition of the hearing nor the conducting of the actual hearing taking place.

### **1. THE HEARING**

- 1.1 This inquiry arises from a complaint received from ATK Pro Series (the series promotor) represented by Mr Jonathan Bentz (“**the complainant**”) the series manager and a Steward member for the series, relating to posts, comments and videos produced and displayed on various social media platforms by a MSA licenced eSport competitor Mr Aldo Bellingan (“**the defendant**”) between Sunday, 30<sup>th</sup> May and Monday, 10<sup>th</sup> June 2021.
- 1.2 It is alleged that the defendant repeatedly posted slanderous comments and videos on social media concerning the hosts ATK, officials and its series sponsors, despite numerous warnings to cease and desist. These include representations made directly to the series sponsor after the incident report show on the Monday, 31<sup>st</sup> May 2021.

### **2. THE EVIDENCE AT THE INQUIRY:**

- 2.1 The history of the relevant events which preceded this inquiry are essentially not contentious.
- 2.2 Mr Jonathan Bentz, ATK – representative explained to the tribunal members the order of events as well as the vast volume of “SCREEN GRABS, EMAILS, CHATS on DISCORD, video on YOUTUBE and Memes on TWITTER among other presented in the shared GOOGLE drive of the alleged infractions over the period mentioned above, in summary he stated the following:
- 2.3 TWEETS AND DISCORD comments started during the live game on Sunday 30<sup>th</sup> May.
- 2.4 These then followed on the 31<sup>st</sup> of May after the incident review.
- 2.5 Several discussion exchanges took place between the complainant and the defendant on DISCORD between the 31<sup>st</sup> of May and the 2<sup>nd</sup> of June.
- 2.6 In the initial discussion the defendant informs ATK that he intends to **protest** the ruling against him. (*Tribunal own underlining and the emphasis of the tribunal.*)
- 2.7 Among these exchanges the defendant threatened to involve the sponsor. This threat was repeated in an email dated June 10<sup>th</sup> as a reply to the notification that ATK had now officially requested a tribunal hearing into the matter.
- 2.8 On 1<sup>st</sup> June, the defendant Tweeted an announcement of the pre-launch of his 59-minute video.
- 2.9 On 1<sup>st</sup> June the defendant was still in discussions with the complainant on the matter.
- 2.10 On June 2<sup>nd</sup>, the window for Protest closed at 17:00. Neither ATK nor MSA had received any formal protest as prescribed in the Pro Series regulations.
- 2.11 Later the same day, at around 19:30 the defendant released a 59-minute video on YOUTUBE alleging it to be “**his side of the story**”. Among the many comments in the video the defendant verbally attacks

the promotor and officials in several comments by naming and shaming same, more than a dozen times are documented, including the use of less than savoury language.

- 2.12 On June 4<sup>th</sup>, the defendant tweeted a “Teaser” announcement of a Meme soon to be launched.
- 2.13 On June 5<sup>th</sup>, the Meme is released, albeit by the defendant’s friend.
- 2.14 On June 10<sup>th</sup>, the complainant reports the matter, formally asking for an investigation into the matter, citing a breach of the series regulations among other.
- 3.1 The Defendant in summary stated the following:
- 3.2 On questioning the above initially felt there was nothing wrong with his approach.
- 3.3 Felt that his option was a cheaper option to that as prescribed in the regulations that requires a protest fee to be lodged.
- 3.4 Upon questioning why he elected to single out certain regulations he felt favoured his approach in his video but not others, the defendant failed to see the relevance of the reasoning of the tribunal. He further stated that he felt that the rules had not been fairly implemented.
- 3.5 The tribunal asked that one of the rules were that he had a right of protest as mentioned in 2.6 above, among all the other rules the defendant used in his narrative in his published video, and asked why he thought ignoring some of the rules but not others was, ok? The defendant did not offer an explanation for this.
- 3.6 The tribunal asked what he had hoped to gain by attempting to involve the series sponsor through his family friend? The defendant said that he felt the sponsor should know that ATK were operating in a biased manner toward the competitors.
- 3.7 The tribunal asked the defendant if he had considered the possible ramifications of liable should or had the sponsor withdrawn from the series due to his actions. The defendant said he had not.
- 3.8 The defendant was asked if he was aware of the GCR’s (General Competition Rules) of MSA? He said that he was aware of them.
- 3.9 The defendant was asked if he was aware of the contents of GCR 172? He said, he was not. The tribunal then went on to describe the contents of the rule, specifically the mention of distribution of content via social media. The defendant felt that his actions had more consequences than he possibly had intended.
- 3.10 When the defendant was questioned about the vast number of mentions of officials and defamatory statements made about them, he felt he had done no such thing. Then when the tribunal listed these individually to him, he felt that they were possibly taken out of context. It was felt that perhaps the defendant was not aware of the “Open Script” feature on YouTube that offers a live transcription of his exact words in text format.
- 3.11 The tribunal reminded the defendant that he had a democratic choice to enter the championship series but in so doing agreed to bind himself to the applicable rules and regulations prescribed with the series. These included the GCR’s of MSA as well as the Supplementary Regulations (SR’s) of the ATK series. The defendant conceded that he understood this.
- 3.12 On asking why the defendant had not attempted to dissuade his colleague from posting the Meme? He said he did not know it had been done until it was published.
- 3.13 The tribunal asked the defendant if he was aware of the provisions of GCR 116 in as far as it describes the responsibility of an entrant and that the fact that the defendant was over the age of 18 years of age

that he was the de facto entrant in this series. Once described to the defendant, he acknowledged that he was not that well versed with the GCR's.

- 3.14 The tribunal asked the defendant if he was at all contrite? The defendant did not seem to understand the question. When this was explained to him and the reason, he was asked this, he acknowledged that he would certainly not want to be ejected from the series and would prefer to be allowed to remain in the championship going forward.

#### 4. APPLICABLE REGULATIONS:

- 4.1 In dealing with this investigation of the complainant, the tribunal notes the following applicable regulations:

- 4.2 **Rule 19** of the General Competition Rules (GCR's) state the following:

"COMPETITOR" means any person or body whose entry is accepted for, or who competes in any competition, ...

- 4.3 **Rule 20** of the General Competition Rules (GCR's) state the following:

"LICENCE" means the written authority given by MSA to:

- i) Any competitor to participate in, or to take part in, in any capacity whatsoever, in any competition, and
- ii) Any official to officiate in any capacity whatsoever, in any competition.

- 4.4 **Rule 22** of the General Competition Rules (GCR's) state the following:

"ENTRANT" means any person, persons or body who enters a vehicle in a competition and who is in possession of a licence.

- 4.5 **Rule 113** (i), (ii) & (xii) of the General Competition Rules (GCR's) state the following:

ENTRANT See GCR 22. In particular entrants shall:

- i) hold the appropriate licence
- ii) be bound by the provisions of the sporting codes applicable to the event
- xii) have the sole right of protest at events

*(Tribunal own underlining)*

- 4.6 **Rules 116** of the General Competition Rules (GCR's) state the following:

INDIVIDUAL RESPONSIBILITY: All persons who during a competition are connected with an entry are not absolved from their individual responsibility under any relevant regulations because of the responsibilities assumed by the entrant or his/her representative.

- 4.7 **Rule 172(v)** of the General Competition Rules (GCR's) state the following:

"Any of the following offences in addition to any other offences specifically referred to previously or hereafter, shall be deemed to be a breach of these rules...

**v) Any proceeding or act prejudicial to the interests of MSA or of motor sport generally shall be deemed a breach of the regulations** and disciplinary action may be taken against offenders. By way of clarification, it is confirmed that the following shall be included in the definition of "prejudicial acts" as per the above:

- Intimidation, either on track or off track.

- Verbal and or physical abuse.
- The distribution/publication via e-mail, cell phone text message or internet website and social media of comments which may be deemed abusive and/or slanderous and/or demeaning and/or inappropriate.
- Acts (including comments and or gestures) which would reasonably be considered by the general public to be offensive or inappropriate.

It is stressed that the above list is not exhaustive, and that each case will be treated on an individual basis.

*(Tribunal own underlining)*

4.8 **Rule 1** of the ATK Pro series / MSA Sim Racing Ruleset 2021 state the following:

**eLICENSE**

Drivers wishing to enter MSA Sanctioned Sim Racing Series will be required to purchase an MSA annual eLicense. This license will be valid for the calendar year in which it is purchased and will bind each Series and drivers to the MSA Sim Racing Ruleset.

Each MSA Sanctioned Sim Racing Series shall have a race steward panel who will enforce the ruleset and be responsible to MSA.

*(Tribunal own underlining)*

4.9 **Rule 12** of the ATK Pro series / MSA Sim Racing Ruleset 2021 state the following:

**PUBLIC BEHAVIOUR**

-Drivers participating in MSA sanctioned events under the MSA eLicense will need to conform to a certain level of public decency.

-Public outbursts will be investigated as race incidents and penalties will be applied as such. This may include - but is not limited to - time penalties, qualifying bans or race/series bans.

-Finger-pointing aimed at race organisers and/or other drivers on public communication and social platforms.

-Foul language in-game text

-Foul language in voice communication platforms

-Outbursts and beratement of organisers or drivers

-Live stream text chat behaviour may result in channel bans or race penalties for associated teammates.

-Hacking and cheating may result in a lifetime ban from MSA Sanctioned events.

**FINDINGS**

5. The contents of the GOOGLE shared drive submitted by the complainant was never disputed by the defendant.
6. The defendant indicated that he intended to protest the decision of the stewards, failed to follow through with this. Had he done so, he would certainly have arrived at a completely different situation than where it was now in front of the tribunal.

7. The defendant conceded that in hindsight, he would certainly have preferred to have protested the decision against him as opposed to his current course of action.
8. It was evident to the tribunal panel that the defendant would be best described as a “Greenhorn” when it came to his knowledge and experience of the rules applicable to the ATK Pro Series. Notable of these is the MSA General Competition Rules (GCR’s).
9. The tribunal were concerned by the demeanour of the defendant and still question his understanding of the potential unintended consequences of his ill contrived actions in dealing with the matter.
10. It is important to state that the perception that a person not satisfied with a decision or specific outcome may take to a social platform to vent their views and opinions. This is not so, and as can be seen that the “Rules of the Game” are clearly documented as to the process such a person is required to follow. Something that the defendant appears not to have considered.
11. The defendant, by his own admission took it upon himself to “Go Public” with his feelings rather than protest, as it “was the cheaper Option” for him. The defendant is reminded that if he honestly believes he has a “Solid Case” as was mentioned to the tribunal, then depositing the prescribed protest fee would have been a safe investment, as the rules state that his protest fee is refunded should he win his protest.
12. The tribunal found the defendant to have erred when he said he was not aware of his friends posting of a meme until it was published. The defendants own tweet on Friday, June 4<sup>th</sup> contradicts this (ref. 2.12 & 3.12 above).
13. It would be remiss of this tribunal not to mention that attacking a sponsor of any series associated to motorsport can have extremely adverse results, that could see a total retraction of its sponsorship. Sponsorships in motorsport are extremely hard to come by and all protection and care must be displayed and exercised to preserve these at all costs.
14. It is important for the tribunal to mention that the ultimate champion of this ATK / MSA SIM series will be nominated to represent the Republic of South Africa at the international FIA Motorsport Games as the collective ambassador of the Country, MSA and ATK, and that this person would remain in the public eye. It is expected of this person to be cognisant and mindful of this fact. These include the build-up and the “Road to Victory” as the journey this elected person took to get to the games. These would include wearing apparel that will ultimately have all the above-mentioned organisations and sponsors branding, not to mention the countries national flag. An ill-disciplined ambassador is something not sought for.
15. The tribunal want to remind everyone reading these findings that the tribunal are at pains to find a measured approach to this finding as it is to set the precedent for future eSports tribunals.
16. It is the view of this tribunal that the defendant is guilty of **GCR 172 (v)** and **ATK Rule 12**.
17. At the time of concluding these findings, the tribunal notes that the slanderous YouTube video and related tweets remain in the public domain.

## **CONCLUSION:**

In the result, the tribunal makes the following order:

1. The defendant is excluded from the results of the 4<sup>th</sup> round of the championship Series (Misano) event held on 30 May 2021.
2. The defendant’s licence in terms of GCR 20 is suspended for a period of 18 Months until 31 December 2022.

3. The defendant is fined the sum of R5000-00 (five thousand rand).
4. Prayer two and three above is suspended for a period of 3 (three) years, being until 31 June 2024, on condition that the defendant does not breach the GCR's and/or the applicable SR's within the 3 (three) year period.
5. Should the defendant commit a breach within the 3 (three) year period, prayer 2 and 3 of this order will be imposed on the defendant in addition to whatever sanction is ordered against the defendant at that stage, from that infraction hearing.
6. The defendant is ordered to pay an amount of R500.00 as a contribution towards the costs of this hearing, which costs are to be paid within 48 hours of receipt of this judgment by the defendant as per GCR 196 to MSA.
7. In making this judgement, the tribunal points to item 17 of the findings above. Should the defendant not have removed (deleted) all the videos, memes, and negative comments off all platforms of social media by close of business on Thursday, 22<sup>nd</sup> July 2021, prayer two and three above is imposed on the defendant with immediate effect.

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

These findings are distributed via email on Wednesday, 21<sup>st</sup> July 2021 at 15h00