



Judgment of the USC Appeals Board in the matter of:

Western Formula 1 v Clubs Governance Board, 2024:9 Clubs

Hearing Date: March 6, 2024

Judgment Released: March 15, 2024

Panel: William Fawcett (Chair), Ann Sony, Stephen Warner

Reasons: Sony (Fawcett, Warner)

PART I: INTRODUCTION

1. This is an appeal by the Western Formula 1 (the “**Club**”) in response to the decision of the USC Clubs Governance Board (“**CGB**”) to deny the Club ratification.
2. For the reasons that follow, I would deny the appeal and uphold the CGB’s decision.

PART II: FACTS

3. The Club submitted an application for ratification as a USC club in accordance with the *Clubs Ratification Procedure* (the “**Procedure**”).
4. On January 15, 2024, the CGB provided the Club with its notice of ratification decision (the “**Notice**”), in which the CGB identified two reasons why the CGB found that the Club was not suited for ratification. Those reasons were as follows.
 - a. The Club’s had the same name or mandate of a club that had been de-ratified in the prior twelve months, contrary to section 2.4.5 of the *Procedure*.

- b. The Club's was unable to demonstrate that it had a feasible model of operations, contrary to section 2.5.1 of the *Procedure*.
5. The Club appealed the Notice under section 5 of the *Procedure*.

PART III: ISSUE

6. The issue is whether the CGB's decision to deny ratification was reasonable.

PART IV: SUBMISSIONS

7. On the issue of having the same mandate as a recently de-ratified club, the first submission made by the Club was that the mandate of the Western Automotive Society, which was de-ratified within the last year, differed significantly from the Club's mandate. It submitted that the Western Automotive Society focussed on individuals with cars, while the Club targeted a larger Western audience who are interested in the sport of Formula 1 motor racing, including those without cars. The Club also drew attention to the events proposed by the Western Automotive Society whose primary events consisted of car meets or cruises as advertised on their Instagram account which would differ significantly from the Club's proposed Formula 1 watch parties, debate nights, and trivia nights.
8. On the issue of having a feasible model of operations, the Club submitted that the initial estimates provided on the budget outlines were safe, under-estimates, and that they have also expanded their membership numbers since the initial ratification process. The Club also made some revisions to its budget to remove certain line items and to adjust the estimated membership, suggesting that as a result, they are now have a feasible model of operation.

9. In its written submissions, the CGB found similarity between the Club's mandate to that of the Western Automotive Society. They found that the Club's focus on Formula 1, a subset of automotive topics, was too similar to the Club's mandate. They highlighted concerns about the Club's potential challenges in garnering interest and memberships, similar to those faced by the previously de-ratified club.

10. The CGB also raised concerns regarding overestimated revenue estimations, particularly with respect to membership fees, sponsorship, and event ticket sales. The CGB found the medium and high membership assumptions submitted by the Club to be inflated as they exceeded the number of signatures collected by the Club. The CGB disregarded the sponsorship revenue in the Club's budget, as the Club claimed no external affiliations and did not submit an affiliation form as part of its application. Lastly, the CGB found ticket sales for the Club's proposed debate night were unrealistically high for a first-time club, leading to overestimated revenue.

PART V: ANALYSIS

11. The CGB has significant discretion with respect to the ratification of proposed student clubs (*AIM to Educate Western v Clubs Governance Board*, 2022:1, para 20).

12. In an appeal of a decision by the CGB not to ratify a club, the role of the Appeals Board is to ensure both the presence of fairness in the decision making process and the adherence to the relevant policies and by-laws. The discretionary power to determine whether a proposed club should or should not become a part of the USC community is ultimately within the purview of the CGB. The Appeals Board does not determine whether any proposed club deserves ratification, as this lies beyond the scope of an appeal to the Appeals Board (*Western Clay Club v Clubs Governance Board*, 2023:6 Clubs, para 14).

13. Regarding the merits of a decision by the CGB not to ratify a club, the Appeals Board will look to see whether the CGB's decision was reasonable based on the material that was before it at the time that the decision was reached (*AIM to Educate Western v Clubs Governance Board*, 2022:1, para 32). The Board must determine if the CGB's decision was transparent, justified, and intelligible and fell within a range of acceptable and defensible outcomes (*AIM to Educate Western v Clubs Governance Board*, 2022:1, para 25).

14. Based on the material before the CGB at the time of its decision, its decision was reasonable.

i. The Decision not to Ratify on the Basis of Section 2.5.1 of the Procedure was Reasonable

15. The CGB's finding of discrepancies between the Club's projected membership numbers and the actual number of signatures collected is understandable. Typically, the high estimate for membership would align with the number of signatures collected, assuming that all those who expressed interest would indeed join the Club. However, the CGB highlighted that it's common for some individuals to express interest but not follow through with membership commitments, leading to a lower conversion rate from interest to actual membership.

16. On a similar note, the ticket sales for the Club's debate night were deemed unrealistic for a first-time club, leading to another source of over-estimated revenue.

17. Finally, the Club included sponsorships in their calculated revenue total without disclosing external affiliations, which are needed for sponsorships as per the *Procedure*. The Club's overestimation on three separate occasions on its budget outline raises doubts about the feasibility

of the Club's financial model and supports the CGB's decision to question the Club's financial feasibility based on the proposed budget.

18. The Club, for their part, put forward submissions which were optimistic but lacked the necessary evidence to demonstrate feasibility with certainty. For instance, the Club highlighted recent events like their watch party, which drew over thirty individuals to the Spoke on a Saturday morning. This is an impressive feat, but this was not information that it presented to the CGB during its initial ratification application. It is not the job of the Appeals Board to conduct a fresh feasibility assessment, but rather to determine the reasonableness of the CGB's assessment based on the information before it at the time of the assessment, which in this instance it was.

19. Having been informed that its proposed budget was unfeasible, the Club submitted a revised budget outline as part of its appeal to this Board. Unfortunately, this does not assist the Club. I would like to highlight the decision of the board in *UWO World Vision v Clubs Governance Board*, 2024:3 Clubs for authority that a club cannot rely on revised documents. The question to be decided by this Board is whether the CGB's decision was reasonable based on the documents that were before it.

20. In particular, I would quote the following excerpt from paragraph 16:

The appeals process is not a mechanism by which a prospective club may attempt to rectify deficiencies in its application materials. If the application materials submitted to the CGB were deficient and the CGB's decision not to ratify the prospective club was based on those deficiencies, the prospective club is not afforded an opportunity to submit revised application materials on its appeal. The issue on such an appeal is whether the CGB's decision not to ratify was reasonable based on the materials that were before it at the time of its decision.

21. Therefore, the Club's argument that that they *now* have an updated budget outline which solidifies their feasibility must be rejected on the basis that the Appeal Panel's consideration of

the CGB's decision is based on the information before the CGB at the time. A prospective club that recognizes that its application materials were deficient after the CGB issues a notice denying ratification has an opportunity to correct those deficiencies during the next ratification application cycle, should it decide to seek ratification again.

ii. The Decision not to Ratify on the Basis of Section 2.4.5 of the Procedure was not Reasonable

22. Turning to the second ground on which the CGB decided not to ratify the Club, Section 2.4.5 of the *Procedure* prevents a club from being ratified if the club had the same name or mandate of a club that had been de-ratified in the prior twelve months. In this case, the CGB identified Western Automotive Society as a recently de-ratified club with a similar mandate, and so the relevant question for this Board to determine is whether the CGB was reasonable in concluding a clear and significant overlap between the mandate of the Club and Western Automotive Society.

23. In its submissions before this Board, the Club vigorously objected to the suggestion that its mandate was the same as the Western Automotive Society. We agree with the Club's submissions. The CGB erred in finding similarity between the mandate of the Club and mandate of the Western Automotive Society.

24. The CGB pointed to the following quote from the Western Automotive Society mandate as demonstrative of overlap with the Club's mandate. "We're [Western Automotive Society] the place to be for anything and everything automotive". Given that Formula 1 and racing fall under a branch of the automotive industry, the CGB came to the broad conclusion that these clubs had the same mandate.

25. During the oral hearing, it became clear that the purpose of the Western Automotive Society differed significantly from the Club at hand. The Club pointed to the following excerpts from the Western Automotive Society as demonstrative of the key differences between the audience and the events of the Club.

- a. “Whether you own a car or are just a petrol head, we’re the place to be for anything and everything automotive!”
- b. “For this school year, we aim to host a variety of events ranging from meets and cruises...”

26. The wording suggests that the primary audience and goals of the Western Automotive Society focussed on individuals owning cars and events such as car meets or cruises. This differs dramatically from the mandate proposed by the Club in question, which emphasizes catering to university students, who predominantly use public transportation rather than owning cars, as watching racing does not require car ownership. The Club’s mandate also includes events such as watch parties, debate nights, and trivia nights which differ significantly from the in-person car meets and cruises proposed by the Western Automotive Society’s mandate and further supported by their posts on their Instagram page. Thus, it was unreasonable for the CGB to broadly lump these two distinct clubs as one despite completely different audiences and events.

27. Notwithstanding the fact that this Board finds that the mandates of the Club and the Western Automotive Society to be distinct and the Club’s application does not violate section 2.4.5 of the *Procedure*, the CGB’s decision that the Club’s application did not meet the requirements of section 2.5.1 of the *Procedure* was reasonable, and for this reason, this appeal is dismissed.

A. Sony

W. Fawcett

S. Warner