



9 June 2019

Dear ILCA District Representative,

As you will know, recently World Sailing voted to retain the Laser and Laser Radial Class boats as equipment for the Men's and Women's One-Person Dinghy events for the 2024 Olympics, subject to certain conditions.

Full approval for the 2024 Games is now contingent on ILCA, the Builders and trademark holders agreeing to the terms of World Sailing's new Olympic Classes Contract by August 1, 2019.

Unlike past agreements, the new Olympic Classes Contract requires that ANY interested party who meets the necessary technical qualifications will be able to manufacture and sell Olympic equipment, including boats and sails.

In addition, if the boat or equipment is protected by trademarks or other intellectual property, the owner of the IP rights is required to grant a license to any qualified new manufacturer on fair, reasonable and non-discriminatory terms (known as 'FRAND').

These two requirements are applicable to all Olympic Classes and represent a major change from past practice. World Sailing has made it absolutely clear that without agreement to these policies our class will be out of the Olympics.

Because we see the Olympics as critical to maintaining the global reach and growth potential for our class, ILCA is fully committed to ensuring that we are retained in the Olympic program and our strongly desired outcome is to see this happen under the Laser brand.

To achieve this goal, the Laser builders and Laser trademark holders must reach agreement on signing the new Olympic Classes Contract before World Sailing's August 1 deadline.

Please be assured that ILCA is actively working with World Sailing and making all efforts to engage with the Builders and trademark holders (including LaserPerformance) to come to an agreement.

Again, World Sailing's Olympic Classes Agreement requires all parties to comply with the Olympic Equipment Policy, which states quite clearly that all Olympic Classes MUST allow "any interested and qualified builder" to access the market under FRAND terms.

We recognize this is a big change for the current trademark holders who have enjoyed exclusive trademark territories in the past, and that there might be resistance to licensing their trademarks to new builders on FRAND terms.

ILCA understands that, as private companies, the trademark holders have the right to do as they wish and they may or may not agree to license their trademarks to new manufacturers.

However, we believe emphatically that it is in the best interest of the class, the sailors and the sport of sailing for our class remain Olympic, even if doing so might involve using an alternative brand name for class legal equipment in order to comply with trademark law and World Sailing's policies.

World Sailing's antitrust policy has been under development since 2017, but the requirement that all Olympic Classes must be open to any qualified manufacturer was made absolutely clear in November 2018 when the World Sailing Council approved its Olympic Equipment Strategy by unanimous vote at its annual conference in Sarasota, Florida.

(See *this* link:

[http://www.sailing.org/tools/documents/OlympicEquipmentStrategyFinal-\[24561\].pdf](http://www.sailing.org/tools/documents/OlympicEquipmentStrategyFinal-[24561].pdf)).

Since November 2018, ILCA has worked tirelessly towards engaging with the various Laser Builders and trademark holders towards a FRAND compliant solution that would allow our class to remain in the Olympics.

To that end, we have developed a proposed policy that is not only compliant with World Sailing requirements but also allows for proper, and appropriate, compensation to the trademark owners.

To date we have had engagement from two of the three Laser builders and trademark holders, PSA and PSJ, who are currently in agreement with the provisions of this policy.

LaserPerformance has, of late, expressed interest in keeping the Laser in the Olympics. However, in spite of numerous attempts, neither ILCA nor World Sailing have yet to see serious engagement from LaserPerformance on the proposed FRAND compliant policy, nor are we aware of any alternative FRAND policy proposal from LaserPerformance.

Time is not on our side here. We need LaserPerformance to become involved now in order to work with them to finalize a FRAND compliant policy

that is agreeable to everyone – World Sailing, ILCA, the builders and their trademark owners.

If LaserPerformance and their trademark holder agree to sign on before the World Sailing August 1 deadline we will certainly be able to achieve World Sailing's requirements and therefore be confirmed for the 2024 Olympics. In this regard, it is entirely the decision of LaserPerformance and their trademark holder to participate in this process or not.

In the event that LaserPerformance decides to forgo the Olympics by not participating in a policy that will satisfy World Sailing's FRAND licensing requirements, ILCA and the remaining builders are still committed to retaining our class in the Olympics.

In this circumstance, it will be necessary for us to go to the membership to approve necessary changes to the ILCA Class Rules before 1 August that would allow our class to remain in the Olympics.

Specifically, the rule change would be to remove the requirement in the ILCA Class Rules that a builder must have rights to use a Laser trademark.

This rule change has been drafted and approved by an 11 to 2 vote of the ILCA World Council. World Sailing has also reviewed the proposal for compliance with its regulations.

Removing the trademark requirement in the ILCA Class Rules would effectively give control of our class to the members, allow us to determine our own future, and guarantee a path forward for Olympic compliance in spite of what the commercial parties might decide.

It is important to note that voting for this rule change does not require the class to sail in alternative branded equipment, it only makes the option available if it is needed.

If, by August 1, all the existing commercial parties agree to the terms of the Olympic Classes Contract, our class could continue in the Olympics using equipment sold under the Laser brand name.

However, if there is no agreement among the commercial parties, under the proposed rule change we would have the option to compete in class legal equipment that is sold under an alternative brand in order to comply with World Sailing's FRAND policy.

To be clear, regardless of such a rule change, all boats and equipment that are currently class legal would remain class legal. Laser brand class legal boats and equipment would be able to race alongside any alternative brand boats in all class-sanctioned events.

If members collectively vote against the proposed rule change, we cannot guarantee that our Class will be able to meet the requirements necessary for maintaining Olympic status.

In this case we would be entirely dependent on the commercial parties and trademark holders coming to an agreement to license their intellectual property.

If any one of the builders or trademark holders decided not to agree to the terms of the Olympic Contract and the FRAND policy, the Laser and Laser Radial would be out of the Olympics as of 1 August.

We believe that losing Olympic status would be devastating to our class and we would expect to quickly see the erosion of youth sailing as the Olympic pathway switches to different equipment.

Given the extremely short timeline and the lack of engagement to date from all parties, we believe it is wise to have a contingency plan ready.

Just as we wouldn't go out to sea without a life vest, as sailors we understand the importance of being prepared for any situation and to have a back-up plan in case things do not go as we would like.

The proposed rule change, if adopted, would allow us to have an alternative path forward in case any builder decides to reject World Sailing's FRAND policy, or simply fails to come to a decision in time to meet the deadline.

We have recently become aware of a letter related to some of these issues that is being circulated by a small but vocal group of Europeans to many ILCA Districts (attached is a copy of this form letter sent to the ILCA office by the French Laser association president).

This letter not only contains many inaccuracies, but is also destructive to our shared objective of growing our sport and remaining in the Olympics.

We consider it important to address some of the inaccurate and unsupported statements raised in that letter so that more informed debate on the issues is possible.

- The letter states: *"1. Let the boat builders build boats and the class do the business they are elected for i.e. organize regattas, promote Laser sailing in all regions, control the quality of the boats, ensure the one-design etc."*

The ILCA World Council is composed, first and foremost, of sailors and is dedicated to supporting the members and the sport of sailing in all parts of the world.

We would like nothing more than to have dedicated and cooperative builders focussed on supplying their markets instead of engaging in disputes over intellectual property that do nothing to support our sport and our sailors.

The form letter does not provide any examples of what the class is doing that is not aimed at meeting the objective of promoting our class. However we believe that working to maintain Olympic status is currently THE highest priority function of the class association, particularly as it, more than anything, promotes Laser sailing in all regions of the world. It should be noted that it was the class association that submitted the Olympic reselection bid, not the builders, and we believe it is critically important to see that process through to a successful conclusion.

- The letter states: *“2. Spend our budget on projects that are important for the sailors and not on legal fights.”*

To be clear, ILCA has never initiated legal action against any party.

In 2012 ILCA was forced to defend itself, along with World Sailing and LaserPerformance, when Bruce Kirby, Inc. sued us in U.S. Court. The class was later dismissed from the case along with World Sailing.

As for ongoing legal fees, over the past years ILCA has been forced to obtain legal advice aimed at preserving our independence from commercial interests aiming to gain control over our organization.

To this end, we have so far been successful thanks to our extensive network of members and friends, many of whom are in the legal profession around the world and have provided extensive expert legal advice on a pro bono basis or at significantly reduced rates.

ILCA represents the sailors in all parts of the world and it is important to stress that our goal is to remain a strong, independent organization, which we believe is the cornerstone of making the class to what it is today, and will keep us strong for the next 50.

As sailors, our primary goal is to serve the sailors, our members and the sport, not commercial interests.

- The letter states: *“3. Achieve a better representation of the Laser population in the ILCA World Council.”*

The ILCA constitution (see link <http://www.laserinternational.org/rules-and-regulations/ilca-constitution/>) defines the World Council to have regional representation rather than being a representational democracy.

Generally, it is the job of the international association to handle issues facing the entire world while the regional associations address issues specific to

their regions. As such, the regional model has served the class well through its nearly 50 years of history.

Further, as the future growth of the class will be primarily from emerging economies, this model allows those regions to have a voice at the international level.

With sailors in over 120 countries worldwide, the ILCA World Council is responsible for representing sailors from all parts of the world not just the large countries. In particular, the current effort to retain Olympic status for our class is in the best interest of all our members.

It should be noted that the ILCA Constitution provides a method for submitting proposals for change. Any member with a proposal for an improvement is encouraged to follow the outline so that it can be properly considered for adoption.

- The letter states: *“4. Ensure true universality of the boat and assist the boat builders in resolving the supply issues in the undersupplied regions.”*

ILCA is fully aware of the significant supply issues affecting many parts of the world.

In fact, when it recommended the RS Aero to replace the Laser for the 2024 Olympics, the World Sailing equipment evaluation report noted multiple times that the lack of supply in a number of regions was a major factor in its evaluation and the low ratings given to the Laser in some categories. (See *link*

[http://sailing.org/tools/documents/EQCSP4biiiMenWomenOnePersonDinghy-\[24944\].pdf](http://sailing.org/tools/documents/EQCSP4biiiMenWomenOnePersonDinghy-[24944].pdf))

To be clear, ILCA is not a builder or supplier of equipment. Under the builder system, which is currently controlled by the Laser trademark holders, ILCA has no power to influence supply issues.

ILCA has continually encouraged the builders to improve supply and reduce prices, but ultimately this is something for the commercial parties to address, not the class association.

Having said that, we note that adopting World Sailing’s FRAND licensing policy, as required for the new Olympic contract, would allow any interested and qualified manufacturer of boats, sails or equipment to enter the market. This will do more to improve supply worldwide than anything the class could achieve under the current trademark controlled builder model.

- The letter states: *“5. Help to introduce the 4.7 rig in regions where it is not so popular instead of trying to replace it by new equipment.”*

This statement is completely inaccurate and baffling. ILCA has no plan to replace the 4.7 rig. Anyone who says otherwise is either misinformed, or worse, is purposefully spreading misinformation.

It is well known that the 4.7 struggles to see significant levels of participation outside Europe, in spite of programs in place to promote the rig. However, it is clear that the 4.7 rig remains important in all parts of the world and provides a valuable and cost-effective entry point into our class.

As sailors acting in the best interest of our sport, it is critically important to stress that ILCA has no plans to replace the 4.7 with anything. Any statement to the contrary is simply false.

Further, the World Council has certainly NOT promoted any plan that would aim to replace the 4.7 in the future.

In saying that, the class has succeeded over the last 50 years by steady, planned evolution. This has included introduction of new rigs, including the Radial and 4.7, and may involve the introduction of additional changes in the future, such as the new rigs being investigated by LaserPerformance or PSJ.

Again, and for the avoidance of doubt, the class has made no commitment to adopt any additional rigs, nor will the class make such a commitment until it is clear that adoption of any new components is in the clear interests of the future of the sailors and the sport and until our members support this.

- The letter states: *"6. Start a solidarity program like we did in Europe for 4.7 sailors and others.*

We fully agree. We would like to point out that ILCA has devoted enormous resources towards developing sailing in all our classes in all parts of the world and will continue to do so with a variety of programs and initiatives.

- The letter states: *"7. Build a strong sustainability program for the Laser class."*

We fully agree. A sustainability program is required of all Olympic equipment suppliers under the terms of the IOC Supplier Code and we will work to assure that our class is fully compliant with this requirement.

In conclusion, probably what is most apparent is that lines of communication have become twisted recently with the result that a number of people may have unanswered questions, or worse, are operating based on false information.

We will continue to work towards timely, clear and informative communication but as always, we are happy to entertain questions either by

email (reply to this email) or by phone call (reply to this email and suggest day/time and number to be reached at), whichever is preferred.

In addition, it is also possible to organize a group conference call if a number of you would like to discuss issues together rather than singly.

Finally, we would like to thank each of you for your time and dedication to supporting this great class and our great sport and we look forward to a long and prosperous future.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tracy Usher". The signature is fluid and cursive, with a long horizontal stroke at the end.

Tracy Usher
President
International Laser Class Association



Association France Laser, 2 Trégonval, 22160 St Servais, France

Friday June 7, 2019

Dear Tracy, Dear Eric,

Concern from France District that ILCA is not representing the best Laser sailors interest

The positive voting of the World Sailing World Council was only the first step. A FRAND agreement must be adopted by the 1st of August in order that the Laser Standard and Radial stay Olympic. But for us a district this is only one of the open issues at the moment. In addition to the FRAND agreement a license agreement must be signed with LPE as the majority of the sailors do not want a name change and LP needs to be re-instated as a party to the LCMA.

After the long-term history of the dispute between ILCA and LPE, we believe that the current ILCA leadership will not be able to facilitate the re-instatement of LPE as a party to the LCMA and sign the license agreement with LP. We also believe that it would be beneficial for the process of reaching a FRAND agreement between World Sailing and the three existing boat builders if a class representative familiar with all the parties and their interests but not involved in the long-term dispute between ILCA and LP was present.

A lot of miscommunication has been done the past months from ILCA and has cruelly affected the Laser class. So only a new person or team can achieve our next goal to have all the documents signed by the 1st of August if we want the Laser stays at the Olympics.

Consequently, we are requesting the class representative, Beat Heinz, to be nominated to participate in the discussions between the three builders and World Sailing on ILCA's behalf. Beat has attended the World Sailing midyear meeting, has met with World Sailing and also attended the all parties meeting on the 22nd of May. He is very familiar with all aspects of the current situation.

Going forward after the 1st of August, we request a more democratic, transparent ILCA that will concentrate on serving the sailors:

- Let the boat builders build boats and the class do the business they are elected for, i.e. organize regattas, promote Laser sailing in all regions, control the quality of the boats, ensure the one-class-design etc.
- Spend our budget on projects that are important to the sailors and not on legal fights.
- Achieve a better representation of the of the Laser population in the ILCA World Council.
- Keep the Laser name.
- Ensure true universality of the boat and assist the boat builders in resolving the supply issues in the undersupplied regions.
- Help to introduce the 4.7 rig in regions where it is not so popular instead of trying to replace it by new equipment.
- Start a solidarity program like we did in Europe for 4.7 sailors and others.
- Built a strong sustainability program for the Laser class

From our opinion this is our only option if we want to sustain as Olympic equipment as long as sailing is an Olympic sport.

Best regards,

Gérard de Roffignac, President de l'AFL