

Decision of the CIS Appeal Panel regarding the 2008 CIS Men's Soccer Championships Draw

Background:

Dalhousie University filed an appeal on November 3, 2008 with respect to the draw for the 2008 Men's Soccer Championship, which was circulated by the CIS office on November 2, 2008.

Given that time was of the essence, CIS policy 90.40.13.2 (see below) was applied and a conference call was convened on November 3 at 7:30PM EST:

For extraordinary situations which require an immediate resolution, as determined by the CEO or the President in their sole discretion, the President and CEO and a third person independent of the dispute shall convene a conference call of the affected parties. After hearing all affected parties' versions of the events, an oral decision will be rendered within 24 hours. If the President or CEO is in a conflict situation they shall be replaced by one of the Past President/President Elect and/or one of the vice-presidents of CIS.

Parties who participated in the Call:

Karen Moore – Dalhousie [participating team in the 2008 CIS Men's Soccer Championship]
Jennifer Myers – York [participating team]
JP Chancy – Montreal [participating team]
Gilles Lepine – Laval [participating team]
Murray Hall – TWU [participating team]
Jennifer Brenning – Carleton [participating team and Championship Host]
Sheila Ann Newton – CIS

Appeal Panellists:

Dick White, Coleen Dufresne, and Ross Wilson. Marg McGregor chaired the conference call and served as recording secretary for the panel.

Points of View and Perspectives of the Parties:

The parties voiced a number of points including:

- Prior to doing the draw that was circulated by CIS on November 2, 2008, CIS received a copy of the QSSF Playing Regulations, which outlined the 2008 QSSF methodology for determining berths to the CIS Championship. The QSSF Playing Regulations provide the winner of the QSSF play-offs the option to be the Q1 or Q2 team at the CIS Championships. *{Le champion de la finale provinciale choisira s'il désire être identifié Québec 1 ou Québec 2.}* Montreal was the winner of the 2008 QSSF play-offs. Montreal informed the CIS office that they would be the Q2 team. The CIS office in turn, went about doing the draw according to the instructions that Montreal was Q2 and Laval was Q1, and in keeping with policy 20.20 which extends the authority to Regional Associations to determine their berths.
- As per CIS policy (20.20.2.1 and 20.20.2.2) Regional Associations have the responsibility and authority to determine how they will declare the representatives of their RA, and the format for awarding the berths.
- The 2008 CIS Championship draw as circulated by the CIS office does not reconcile with CIS Playing Regulations D.2.1 (PR/114): *"Therefore Regional Association Championship Teams would be paired against a different Regional Association's runner-up team or the host."*
- In this set of circumstances there is a contradiction between CIS policies, and Playing Regulations.
- In 2007 the QSSF applied a non-traditional methodology for awarding berths that differed from what was used by other Regional Associations in CIS [the winner of QSSF regular season league play was Q1]. In 2007 the winner of the QSSF play-offs was Q2. The 2007 methodology was revised in 2008 by the QSSF. The 2008 QSSF methodology again differed from that employed in the rest of the country [the winner of the QSSF play-offs determines if they will be Q1 or Q2]. This illustrates that 2008 is not the first time that the determination of who is Q1 and who is Q2 has rested with the QSSF.

- The CIS soccer coaches have agreed to the “one-conference champ in each bracket” draw, and that format should be honoured in spite of the contradiction with CIS policy.
- The 2008 QSSF methodology to grant the winner of the QSSF play-offs the option of being Q1 or Q2 at their discretion creates conditions for a QSSF team to see how other teams in the country have done and then to select their first round opponent. This could be called a competitive advantage, nefarious, and is not a privilege extended to other participating teams. If it were to extend to other Regional Associations there could be last minute swapping of berths and it would be chaotic.
- From a Host's perspective Carleton has moved forward based on the draw supplied by the CIS office. The CIS Soccer Championship program is at the printers, and advertisement will appear in the Ottawa newspaper with the draw provided by the CIS.
- Teams have begun their preparations for their first round match-ups and are arriving in Ottawa.

Decision and Reasons:

As much as the appeal panel fundamentally disagreed that a Regional Association would extend to a team the discretion to determine their ranking which in turn determines the team's first round match-up, the appeal was denied. The draw will remain as circulated by the CIS office on November 2, 2008.

The panel recognized that CIS policies do extend authority to regional associations to determine formats for the awarding of berths to CIS Championships. While the panel struggled with how the word “format” in policy 20.20 applied to rank ordering of the berths, they recognized that a precedent of sort had been set in 2007 when the QSSF applied a non-traditional methodology of determining who would be Q1 and Q2. In 2007 the QSSF Play-off Champion was Q2 and the winner of the QSSF regular season league play was Q1. CIS accepted this ranking in 2007. CIS did not receive feedback from the Coaches Association or from institutions, and no motion to change this QSSF approach was received by the CIS Sport Committee after the 2007 Championships. CIS proceeded in 2008 as in the past year.

While the CIS appeal panel did not necessarily agree with what they labeled the “liberal QSSF interpretation” of the QSSF authority to determine ranking of berths pursuant to Policy 20.20, they recognized that it was not the first time that the QSSF had employed a non-traditional methodology to rank their CIS Championship berths.

The panel wrestled with the contradiction between CIS policies, and CIS Playing Regulations in this set of unusual circumstances. CIS has two rules (one policy and one playing regulation) that do not reconcile given the QSSF interpretation of CIS policy and circumstances. If the panel were to over-turn the original draw, the playing regulations would be respected, yet the policy would not be. Upholding the original decision respects the policy but compromises the playing regulations. Should policy trump playing regulations or vice versa?

To resolve this conundrum the panel reflected on the question of “Was the original decision [the November 2, 2008 draw] reasonable under the circumstances?”. If yes, the CIS policies would govern the matter, and the panel would deny the appeal. In this scenario the panel would recommend that steps be taken to remedy it for the future. If the original decision was not reasonable, the appeal would be upheld and the playing regulations would govern the matter.

While the panel did not necessarily agree with the original decision [the November 2 draw], they were of the view that the original decision was reasonable given the set of circumstances and history. The QSSF interpretation of policy was accepted and implemented in 2007, so it was reasonable in 2008 to go with policy as 'interpreted' and previously accepted. The panel also noted that the original decision had been acted upon and teams have begun their preparations for their first round match-ups.

The panel directed the CEO to take steps to ensure that CIS policies and internal practices are revised such that a circumstance like this does not occur again.

Reasons delivered: November 4, 2008.