

Minutes

BMW CC National Directors' Teleconference Meeting

Monday, March 22, 2004 9:00pm-11:10pm EST

Directors' Present: Bluenose (Laura Arthurs); Quebec (Phil Abrami); Chris Pawlowicz (Ottawa); Trillium (Gerry Low); Southern Alberta (John Herbst for Kip Keylock); Northern Alberta (Peter Spencer for Jim Robson); British Columbia Mainland (Rolf Drommer); and Vancouver Island (Roger Harmston).

Invited Guests: Dave Rowlison (Trillium Chapter) and Craig Tilford (Insurance Advisor).

DISCLAIMER: The minutes do not reflect the official policy of the BMW CC, its Directors, regional Chapters, chapter executive, or members. The minutes are not a legal document and do not reflect official interpretations of insurance policies.

NOTE: These minutes contain additional clarifications and amplifications added following the conference call.

Purpose and background: The purpose of the teleconference meeting was to discuss the national implications of the driving school policy of the Trillium Chapter adopted by their Directors on February 1, 2004:

"Insurance Issues At Driving Schools

Gerry had tried to clarify the insurance issue regarding race cars at driving schools, and received an unclear response. A lengthy discussion ensued and it was eventually agreed by all five directors present that at driving schools, participation will be limited to cars that are licensed, plated and insured, in order to best protect participants from an insurance point of view. The matter was left open as to whether some alternate arrangement could be worked out to accommodate unlicensed cars on the Friday instructor/advanced training days."

The announcement of this policy has caused a considerable reaction among the members of the Trillium Chapter. Members with track-prepared cars have been especially upset and a host of instructors have withdrawn their services.

The Directors of the Trillium Chapter have clarified their position as of March 31, 2004:

Trillium is taking a risk adverse position as to what constitutes an acceptable ADS vehicle. Simply, ADS worthiness is one that is defined by each province and state in North America. Valid and current local jurisdiction registration (plated) and liability insurance (insured) is required. Open top cars without a roll bar are excluded for safety reasons. The directors' position of being risk adverse is for the benefit of maintaining personal automobile insurance validation for all participants of Club Canada ADS's as well as the local and national directors, officers and organizers of the Club.

Non eligible cars are allowed at our ADS events but must drive in their own segregated run groups. The number of cars that fall into this category are few at this time to warrant equal track time over an ADS weekend.

Since the ADS Program began in 1983, the operational understanding between the organizers, participants and insurance companies was that there was to be no timing of laps, competitiveness on-track, and only registered and insured cars. The understanding has worked well for all participant collision and liability claims that have been made in 20 years. In 2004, insurance companies widely vary in their coverage to our ADS participants. Some knowingly provide full, some liability only and others nothing. As a result of the wide variation of coverage, Trillium advises that each participant ensure that he/she is covered by their personal insurance policy.

Modified or altered cars that are plated and insured pose no threat to the insurance eligibility of other vehicles in their group. Participants that have limited or no insurance coverage while at the ADS pose a financial risk only to themselves and not to the group as a whole. In the event of an incident, the Club's liability insurance will protect them from a lawsuit but they will not receive compensation for their loss of earnings or personal function.

Basic Issue: The core issue is one of inclusivity versus risk. There are club members who wish to learn and to instruct using unplated and uninsured track prepared vehicles. There is a dispute over whether continuing to allow these participants into events will reduce the likelihood of an insured driver successfully filing a claim in the event of an incident.

Structure of the meeting: In order to give a full and complete hearing to the issues, Directors received a summary of the issues (see attached) and were encouraged to consult the Discussion forum of the Trillium Chapter website. Directors were also requested to confer with their respective Chapter Executive and members in advance of the conference call.

To insure a fair and complete representation of the issues, additional input was sought. Gerry Low accepted an invitation to represent and speak on behalf of the Trillium Directors. Dave Rowilson accepted an invitation to represent and speak on behalf of those in the Trillium Chapter opposed to the adopted policy. Craig Tilford agreed to offer his input as an insurance industry expert who also has experience as a driving school instructor and organizer. Kevin Besta of Jones Brown Insurance, which provides national insurance to the club as well as policies for our motorsport activities, declined to participate in the conference call but did e-mail his opinion.

Gerry Low, Dave Rowlison and Craig Tilford were involved in the first half of the conference call presenting their viewpoints. The second half of the conference call included only the National Directors.

What follows is a summary of the major points raised during the conference call.

BMW CC National Insurance

The BMW CC has two insurance policies with Jones-Brown: a Directors and Officers policy and a liability policy. These policies are designed to insure and protect the national and regional clubs and its officials. In addition, chapters that hold motorsport events must hold insurance from Jones-Brown for each track event held.

In declining to participate in the conference call, Kevin Besta sent the following e-mail:

Hello Phil:

I am not sure that my participation is necessary. The issues are not related to the insurance that Jones Brown Motorsports provides. We have no requirements regarding street legal and not street legal on the track together. I believe the issue is with the personal auto insurance coverage to which I have no part. I presented my opinion to the Toronto board but the decision are all theirs.

Regards,

Kevin Besta, CIP

Motorsports

Jones Brown Inc

Insurance policies and modifications

Insurance companies differ to the extent to which they will allow vehicle modifications without affecting the terms of a policy. Some modifications (e.g., roll bars or partial cages) may create special problems in the event of a claim.

Insurance policies and driving schools

Automobile insurance falls under provincial, not national, jurisdictions. Therefore, the terms and conditions set by regional insurance carriers may vary by region. In addition, insurance companies differ in the extent to which they will accept, refute, or reject claims made for damages incurred at driving schools, especially those held at tracks. The consequences of the World Trade Center disaster have been especially hard on the insurance industry worldwide. Claims are more carefully scrutinized than ever before.

Insured and uninsured cars at driving schools

There has never been an incident of car-to-car contact at a BMW CC driving school. There have, however, been numerous single car incidents with most but not all without

personal injury. No claim has ever been filed against the BMW CC's national insurance or motorsport insurance policies. Claims have been successfully filed for vehicle repairs on owners' personal insurance.

Craig Tilford, insurance advisor, offered the following opinion:

Insured cars should be covered regardless of whether they are segregated from non-insured cars or integrated with them. This should be the case regardless of whether there is a single car incident or a multiple car incident including contact with an uninsured car. In the above, clearly establishing the nature and format of the driving school is important. This should be the case assuming the insurer does not find and/or enforce any other exclusion or limitation beyond illegal acts or racing.

Uninsured drivers are not covered for damage to their cars and may not be covered in the case of personal injury depending on the nature of the personal, non-automotive insurance policies. In the event of a multi-car incident, they may face a lawsuit from the insurance company of the insured driver. However, all event participants are required to sign the "Release and waiver of liability, assumption of risk, and indemnity agreement". This agreement states, in part, the following:

...Each of the undersigned, for himself, his personal representatives, heirs, and next of kin:hereby releases waives, discharges, and covenants not to sue the promoters, participants, racing associations, sanctioning organizations--from all liability....for any and all loss or damage, and any claim or demands therefore on account of injury to the person or property or resulting in death of the undersigned...."

In the event of an incident, participants without personal liability insurance would receive no compensation from the Club's policy even if they were injured or otherwise unable to work. However, the Jones-Brown policy would protect the uninsured driver from a lawsuit if the event waiver were properly executed.

As far as making a recommendation to the National Club, Craig had this to say: *"I cannot guarantee if you did have segregated run groups that all claims would be covered in the insured run group. All insurance companies are not the same. Each provincial automobile policy has their own wordings. And there are even more participants with different claims records that might impact on the outcome of an incident."*

Incident Prevention

Another means to accomplish risk reduction is not through insurance but through education. Revised curricula and better trained instructors are means to accomplish this especially in light of the transition over time from power-limited to grip-limited driving school cars. Both the Trillium Chapter, in particular, and the BMW CC and its constituent chapters, in general, are taking steps to modernize driver education. However, it is also the contention of some that active instructors have track-prepared cars

and so the enforcement of the Trillium policy may remove good instructors from the pool.

National Bylaws

The National Bylaws of the BMW CC are on the club website at:
<http://www.bmwclub.ca/about/about.html>

The BMW CC is intended to be an umbrella organization providing considerable autonomy to each regional club. For example, the BMW CC provides support and guidelines to chapters to help support their regional activities. But the BMW CC has a mandate to act when the issues it addresses affect each chapter and each member. It would also appear that major changes to policy and bylaw require a vote of the membership:

"67. Issues brought forward by the National Directors which affect all the members of the individual chapters and clubs are subject to a national vote of the membership. Bylaw and other changes require majority approval of those voting."

Regional Opinions

National Directors have consulted with their regional constituents. Atlantic (Bluenose), Southern Alberta, Northern Alberta, Mainland BC, and Vancouver Island executives are opposed to including non-insured cars in their driving schools. To repeat, the Trillium Directors are also opposed but members of their chapter strongly disagree. Both Ottawa and Quebec chapter executive have voted in favor of allowing some form of participation of both insured and uninsured vehicles at their schools, including the possibility of segregated or restricted run groups.

Action Plan

The National Directors chose to gather more information before deciding on a policy/bylaw change or guideline/recommendation. The following memo was sent to expedite the process:

March 22, 2004

Dear Directors,

Pursuant to the consensus we reached in our conference call, please submit to me all questions and short material you wish me to put into a draft letter to Kevin Besta of Jones Brown and litigation lawyers. Please also submit to me the names, e-mail addresses, and phone numbers of litigation lawyers who would be willing to offer us a legal opinion without charge.

Deadline for submission is March 29, 2004.

I will circulate the draft letter for comments before forwarding.

After receiving replies we will discuss the matter again. Please consult with your chapter exec and members and examine the National bylaws which can be found on the national website.

*Thanks,
Phil*

Conflict of interest

The President of the BMW CC is elected from among the eight National Directors and hence is also a chapter representative. In the current situation, these dual roles are, at times, incompatible. Therefore, the current President asked for and received approval to seek a temporary representative from Quebec to represent their concerns so the President could focus only on national matters representing all chapters equally. The temporary Quebec representative is Cherif Gress.

March 24, 2004

Dear National Directors,

Especially during our latest conference call on insurance, I found myself conflicted over the two hats I have to wear--representative of the Quebec chapter and president of the national club. It is important that all regional voices be heard. It is equally important that, as president, I am seen as acting fairly and equitably on behalf of all the regional constituents and in the best interests of the club nationally.

Because of the great energy and emotion the current debate has aroused, and also because opinions are divided I have been concerned about my dual roles. Therefore, I suggest a temporary alternative unless there is an objection. Until this issue is resolved, I would like to invite a guest speaker from the Quebec Chapter to join our on-line and teleconference discussions. That way, the Quebec voice can be fully heard and I can act only on behalf of the national interests of the club, neutral to any one perspective.

Regards,

*Phil Abrami, President
BMW Club of Canada*

E-mail circulated to National Directors

March 13, 2004

Dear National Directors,

I received an e-mail today from Gerry Low, National Director, regarding the policies now being enforced for Driving Schools held by the Trillium Chapter. These policies are related to concerns expressed by the Trillium Board of Directors about insurance if certain track-ready or uninsured vehicles are allowed to participate in schools with cars not so designated (e.g., unmodified street cars). The planned enforcement of these policies has created quite a furor among the members of the Trillium Chapter as is evident if you examine the discussion forum on their website, where, for example, some instructors are planning not to instruct because of the policy.

I responded to Gerry earlier today offering my preliminary thoughts as club president. He has since responded by accepting my suggestion that we hold a National Directors' conference call soon. The three e-mails appear below.

Therefore, unless I hear otherwise, I will schedule a conference call for Monday, March 22 at 9:00pm EST to run until 11:00pm EST. Details to follow.

Fro this conference call, I want to be sure we give equal voice to all points of view. With the permission of the Directors' I will invite Gerry Low to speak fist followed by someone from the opposing side, possibly Dave Rowilson. I will also try to get one or two insurance representatives to join us, possibly Kevin Besta and/or Craig Tilford. We will excuse them after no more than one hour so that the Directors' may conduct their business on this matter.

In the interim, I urge each National Director to:

- a) read the e-mails appended below;
- b) read each of the posts regarding this issue on the Trillium Chapter website:
<http://www.trillium-bmwclub.ca>
- c) forward this e-mail to the members of your chapter executive and members to solicit their opinions. (Personally, I have no problem with this e-mail being placed on national and chapter websites and discussion forums.)
- d) determine who might be their chapter's representative on an advisory committee.

Regards,

Phil Abrami, President

BMW Club of Canada
514-487-4646

Rolf / Phil,

I trust that both of you have been entertained by the passionate discussions on our local website with regards to the directors position on school insurance. The matter involves all schools in Canada and beyond. We as a National board have to take a position.

Thoughts, ideas?

Gerry

Hi Gerry--

I am sorry for you and the others involved in what appears to be an acrimonious debate over Trillium driving school policy. I know there have been passionate and elaborate presentations from both perspectives, not all of which appear on the Trillium website. Nevertheless, I hope there is a happy solution in sight which somehow appeals to and includes everyone. For example, have you considered segregated run groups for track-ready and modified cars?

As far as a National perspective, my initial thoughts are these:

- 1) I believe a National policy, to have any force, would require a change to the bylaws especially in light of the differences among members the Trillium policy has already engendered. Even so, I am concerned that regional differences in voting might occur, as well as an overall split vote, which might break the peace we have enjoyed over the last several years.
- 2) A recommendation from the National Board, not a policy, would be up to the individual Chapters to accept or reject especially since car insurance is a provincial, not national, matter.
- 3) I would be in favor of establishing an advisory committee to examine the insurance issues which have been raised on both sides of the debate. I would also give this group the mandate to consult with other, respected clubs and their chapters (e.g., CCA & PCA) to learn how they are currently dealing with these issues. We have to separate facts from beliefs and then let the facts speak for themselves.
- 4) I would be happy to accept a request to have a National Directors' conference call regarding the matter with a preliminary summary of both sides of the issue, possibly involving a guest speaker or two at the outset of the call.

I hope this helps.

Regards,

Phil

Phil,

My reply is below. The BMWCC Advanced Driving Schools is the Club's Crown Jewel. I want to preserve it.

Gerry

>

> From: "Phil Abrami" <abrami@education.concordia.ca>

> Date: 2004/03/13 Sat PM 12:46:46 EST

> To: gerry@parallel-mkt.com

> CC: Rolf Drommer <rolf@bmwclub.ca>

> Subject: Re: National School Insurance Position

>

> Hi Gerry--

>

> I am sorry for you and the others involved in what appears to be an
> acrimonious debate over Trillium driving school policy. I know there have
> been passionate and elaborate presentations from both perspectives, not
> all of which appear on the Trillium website. Nevertheless, I hope there is
> a happy solution in sight which somehow appeals to and includes everyone.
> For example, have you considered segregated run groups for track-ready and
> modified cars?

[Gerry] A segregated run group has been made available on the first day (Friday). If a full run group (30) were possible, then I would consider recommending a segregated group for the whole weekend. We cannot cater to the few track-only cars that are objecting to the decision.

> As far as a National perspective, my initial thoughts are these:

>

> 1) I believe a National policy, to have any force, would require a change
> to the bylaws especially in light of the differences among members the
> Trillium policy has already engendered. Even so, I am concerned that
> regional differences in voting might occur, as well as an overall split
> vote, which might break the peace we have enjoyed over the last several
> years.

[Gerry] Phil, I am very concerned as to the longevity of our Advanced Driving Schools if national and regional insurance underwriters decline collision and especially liability coverage to our members when at our Schools. The Schools have been and will always be for the Students. Trillium is being proactive by reducing possible areas of risk in order to maintain our personal coverage. One of these areas was the combined street and

track-only run groups. Kevin Besta of Jones-Brown felt that even though the sessions were not timed, the very presence of the track-only cars in mixed groups would void the policies of the street cars. Trillium will now run only segregated run groups when scheduling and numbers warrant.

- > 2) A recommendation from the National Board, not a policy, would be up to
- > the individual Chapters to accept or reject especially since car insurance
- > is a provincial, not national, matter.

[Gerry] A policy is required here. Insurance coverage concerns are now being examined in the US.

- > 3) I would be in favor of establishing an advisory committee to examine
- > the insurance issues which have been raised on both sides of the debate.
- > I would also give this group the mandate to consult with other, respected
- > clubs and their chapters (e.g., CCA & PCA) to learn how they are currently
- > dealing with these issues. We have to separate facts from beliefs and then
- > let the facts speak for themselves.

[Gerry] Agreed. We have 5 weeks before Trillium's first school of the year.

- > 4) I would be happy to accept a request to have a National Directors'
- > conference call regarding the matter with a preliminary summary of both
- > sides of the issue, possibly involving a guest speaker or two at the
- > outset of the call.

[Gerry] I request a National Directors' conference call at the earliest convenience to discuss the matter. Kevin Besta was our guest and expert at our Trillium meeting. Perhaps you can email him and discuss the matter from a National perspective.

- > I hope this helps.
- >
- > Regards,
- >
- > Phil
- >