



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2008/283, C2008/287 and C2008/289
Contact Officer: Monica Bourke
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14 March 2008

<Address>

Dear <Salutation>

*This letter, with enclosures,
was posted to the
attached list of interested parties
on 14/3/08. MB.*

Exclusive Dealing Notification lodged by NASR and others

On 12 February 2008, the Australian Competition and Consumer Commission (the ACCC) received exclusive dealing notifications from the National Association of Speedway Racing Incorporated and the National Association of Speedway Racing Pty Ltd (together 'NASR'). Similar notifications were also lodged by various racing body organisations and raceways.

The ACCC invites your comment on the exclusive dealing notifications. Information about the exclusive dealing notification process is attached.

The notified conduct

Broadly, the notifications relate to the offer and supply of NASR licences to drivers and NASR approval of race tracks and venues.

NASR has lodged two exclusive dealing notifications, one for third line forcing and the other for exclusive dealing other than third line forcing. An explanation of these types of conduct is outlined in the attachment.

Third line forcing conduct

NASR proposes to offer and supply NASR licences, on condition that:

- (a) the offeree only races at tracks and venues which are sanctioned or approved by NASR and
- (b) the offeree obtain membership of the relevant National and/or State and/or regional club or association for the offeree's relevant speedway racing category.

The Sprintcar Control Council of Australia Incorporated (SCCA), the Australian Saloon Car Federation Incorporated (ASCF) and the Dirt Modifieds Australia Incorporated (DMA) (together 'Competitor Groups') have lodged related notifications for third line forcing conduct whereby membership to each Competitor Group is offered on condition that:

- (a) the offeree has purchased a suitable licence from NASR and
- (b) the offeree only races at tracks and venues which are sanctioned or approved by NASR.

Placide Pty Ltd as trustee for the Metro Speedway Trust t/a Speedway Perth Motorplex (Perth Motorplex) and Coria Park Pty Ltd t/a Avalon International Raceway (Avalon International Raceway) have also lodged related notifications for third line forcing conduct. Perth Motorplex and Avalon International propose to offer and supply race services, including access to track facilities and race events, on condition that:

- (a) the offeree has purchased a suitable licence from NASR in order to compete at the track and
- (b) the offeree has purchased a suitable licence from NASR in order to visit the racing pit area.

Exclusive dealing conduct other than third line forcing

NASR proposes to offer and supply speedway racing licences, on condition that the offeree only participate or compete in speedway racing categories approved by NASR.

Attached is a copy of the notifications and supporting submissions. There are also a number of documents lodged in support of the notifications which are available on the ACCC's website. The ACCC also sought additional information from NASR, which is available on the ACCC's website.

Interested party submissions

The role of the ACCC in assessing a notification is to assess the public benefits and public detriments, including any lessening of competition, from the conduct as it has been notified.

To assist the ACCC in its assessment of the notifications, it would be helpful to obtain your view on the impact on competition and the likely public benefits and public detriments arising from the conduct. In particular, I invite your response to the following questions, where applicable.

1. How important is it to hold a NASR licence if you are a speedway driver? What other race controlling bodies provide licences and/or manage speedway events that drivers can attend instead of NASR approved events?
2. NASR advise that it has negotiated a group personal injury insurance policy which provides coverage to licensees as a member benefit at no additional cost. NASR advise that licensees/members remain free to obtain appropriate personal injury insurance from other providers.

Do drivers obtain their own insurance? Why or why not?

How difficult is it to obtain personal injury insurance as a speedway driver or track/venue operator?

Who are the main providers of insurance? What is the approximate cost for obtaining insurance for speedway racing?

3. NASR advise that should a licensee/member obtain their own insurance instead of/in addition to the insurance provided as a member benefit of the NASR licence, the licence fee paid by that member is not adjusted.

Does this prevent licensees/members from taking out their own insurance? Why or why not?

4. NASR advise that licensees/members may obtain licences from other associations and may therefore race at non-NASR approved tracks and events. However, NASR's group personal injury insurance provided as a member benefit does not apply to non-NASR approved races, events or tracks.

Do drivers race at both NASR and non-NASR approved events and venues?

Does this deter a driver from racing at non-NASR approved events and tracks? Why or why not?

5. How important is it for a venue or track to be NASR approved? Can you outline what the effect of not being NASR-approved might have on these tracks?
6. How important is it for a sprint car driver, saloon car driver or V8 dirt modified car driver to be a member the SCCA, ASCF or the DMA? Are there alternative racing body organisations that operate events and/or tracks in these categories of racing?

Request for submissions

If you intend to provide a submission in relation to the exclusive dealing notifications, please do so by **Thursday 27 March 2008**.

Submissions will be placed on the ACCC's public register subject to any request for exclusion (guidelines are attached).

You can forward this letter to any other party who may wish to make a submission to the ACCC regarding these notifications.

If you wish to discuss any aspect of this matter, please do not hesitate to contact Monica Bourke on (02) 6243 1351.

A copy of this letter has been placed on the ACCC's public register.

Yours sincerely

David Hatfield
Acting General Manager
Adjudication Branch

The Exclusive Dealing Notification Process

The ACCC is the independent Australian government agency responsible for administering the Trade Practices Act 1974 (the Act). A key objective of the Act is to prevent anti-competitive arrangements or conduct, thereby encouraging competition and efficiency in business resulting in a greater choice for consumers in price, quality and service.

Exclusive dealing involves one trader imposing restrictions on another trader's freedom to choose with whom, in what or where they deal. Exclusive dealing is prohibited under the Act in certain circumstances.

A common form of exclusive dealing is third line forcing. Third line forcing involves the supply of goods or services on condition that the purchaser also acquires goods or services from a third party. Another form of exclusive dealing is the supply of goods or services on condition that the buyer will not acquire, or will limit the acquisition of, goods or services from a competitor of the supplier. This form of exclusive dealing will only breach the Act where it has the purpose or effect of substantially lessening competition.

Businesses may obtain immunity for conduct that might risk breaching the exclusive dealing provisions of the Act by lodging a 'notification' with the ACCC.

The ACCC may revoke a third line forcing notification if it is satisfied that the likely benefit to the public from the proposed conduct will not outweigh the likely detriment to the public from the conduct.

The ACCC may revoke a notification for exclusive dealing other than third line forcing if it is satisfied that the conduct has the purpose, effect or likely effect of substantially lessening competition and the likely benefit to the public will not outweigh the detriment to the public from the lessening competition.

Before revoking a notification the ACCC will issue a draft of its reasons and provide an opportunity to call a conference.

The Act sets out a public process for assessing exclusive dealing notifications with notifications and related documents placed on a public register. In some cases the ACCC will contact interested parties inviting submissions on the proposed exclusive dealing conduct.

Making a submission

When preparing your submission, please remember to provide details of the reasons for your particular views and any supporting materials you may have.

The ACCC encourages submissions in writing, however oral submissions can also be made. Both written and oral submissions are placed on a public register.

You may request that information included in the submission be excluded from the public register. Submissions which are excluded from the public register may still be taken into account by the ACCC when conducting its assessment of a exclusive dealing notification. The ACCC has prepared guidelines for seeking exclusion from the public register which are available on its website.

Submissions should be addressed to:

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
Canberra ACT 2601

They can also be lodged by email to adjudication@acc.gov.au or by facsimile on 02 6243 1211.

Interested parties consulted

National Dirt Racers Association Inc
Confederation of Australian Motor Sport
Confederation of Australian Motor Sport
Australian Formula 500 Association
NDRA WA
Western Australian Speedway Commission Inc
Queensland Saloon Car Association Inc
Classic Speedway Association QLD Inc
East Coast A Grade Sedan Club In
Victorian Speedway Council Committee
Speedway Drivers Association of SA Inc
Motorsports NT Inc
Darwin Speedway Riders Drivers Association
Northern Tasmania Speedway Drivers Association
Sprintcar Association of NSW
Sprintcar Racing Association of Victoria
SCCA Board Members
Modified Sprintcar Association of Queensland
Australian Institute of Motor Sport Safety
Australian Sports Foundation
VSCF
WASCF Inc
QSCF Inc
NTSCI
TSCF
NASR SA
SSA of NSW
Corowa Speedway Club Inc
Newtown Park Speedway
South Burnett Speedway Club Inc
Roma International Motor Speedway
Redline Raceway Ballarat
Formula Motorsports Group
Stawell Motor Speedway
Collie Speedway
Carnarvon Speedway
Ellenbrook Speedway
Maryborough Speedway
Brisbane International Speedway Pty Ltd
Lismore Speedway
Premier Speedway Club
Kalgoorlie International Speedway
Quit Motorplex
Arunga Park Speedway
Borderline Speedway
Riverland Speedway
Latrobe Speedway Pty Ltd