



Australian  
Competition &  
Consumer  
Commission

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Our Ref: C2008/283, C2008/287 and C2008/289  
Contact Officer: Monica Bourke  
Contact Phone: 02 6243 1531

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](mailto: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