



Our Ref: 241933

27 March 2008

BY REGISTERED POST AND EMAIL

Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

Attention: Ms Monica Bourke

Dear Ms Bourke

Exclusive Dealing Notifications lodged by the National Association of Speedway Racing ("NASR")

We refer to your email dated 12 March 2008, which specifies queries relating to the Form G notifications lodged by NASR.

We are instructed to respond to your queries as follows:

- 1. That NASR licensees can race at non-approved tracks (albeit the insurance provided by NASR as a member benefit of a NASR licence will not cover them). By way of the notified conduct, does holding a NASR licence prevent members from racing at non-NASR approved tracks?*

Proposed conduct

As specified in item 2(b) of the third line forcing notification lodged by NASR, it is proposed that the offer and supply of NASR licences will be subject to a condition that the licensee only race at tracks and venues which are sanctioned or approved by NASR. For the avoidance of doubt, the personal accident insurance covers racing at non-approved tracks, provided the event is in an approved category. The effect of the proposed conduct would be to give NASR the right to terminate the licence for racing at a non-approved track.

We submit that the proposed conduct will have several benefits for speedway racing participants and the public generally because tracks and venues which are sanctioned or approved by NASR must adopt NASR's systems and procedures, including:

- compliance with a risk management program;
- undertaking track inspections and track risk audits, including compliance with directions from NASR regarding track maintenance and improvements;
- satisfaction of a Five-star National Track Standard Rating system, ensuring that tracks and venues meet recognised industry standards;

creating consistent expectations regarding the standard of facilities at which racing is to occur. NASR considers that allowing NASR licence holders to race at non-approved tracks and venues would have a detrimental effect, both on the sport as a whole and the public generally. As speedway racing is an inherently dangerous sport, it is not advisable from a public safety perspective to allow traders to establish speedway racing tracks and venues without requiring some objective safety and risk management criteria to be met. Doing so would put drivers, officials and the public at risk.

As the internationally recognised controlling body of speedway racing in Australia, NASR considers that it is its responsibility to ensure that the tracks and venues at which speedway racing is conducted, are approved by reference to an objective and nationwide set of criteria, and held to appropriate levels of maintenance and safety.

No public detriment

We also note that as at July 2007, approximately 70% of all speedway racing tracks were approved and sanctioned by NASR. This includes all tracks in South Australia, Tasmania, Northern Territory and the ACT, and a majority of tracks in New South Wales and Queensland. Further, many tracks that are not NASR-approved are smaller country tracks whose NASR-approved status changes depending upon their operational status. For this reason, we submit that the requirement that NASR licensees only race at tracks and venues approved or sanctioned by NASR does not cause any public detriment, because most tracks are already NASR-approved.

- 2. If a driver chooses to take out their own personal injury insurance, can they use this policy to cover them at NASR events, or must a driver make a claim under the NASR insurance? If a driver is covered by their own personal injury insurance, as well as the NASR insurance, in the event of an accident can the driver choose to make a claim under either policy? Where an accident occurs on a NASR approved track, does NASR require the accident to be claimed under the NASR insurance?*

We confirm that drivers may choose to claim under either the NASR policy or their own policy. However by law, a person cannot claim under both policies in respect of a single accident.

- 3. Under the notified conduct, will members of the SCCA, ASCF and DMA be able to race at non-NASR tracks and events? If not, why not? What is the impact on members of these groups by restricting the tracks in which they can race? Is it important for a driver to become a member of the SCCA, ASCF and DMA? What is the cost? Can drivers become members of NASR instead of obtaining membership from SCCA, ASCF and DMA?*

As specified in item 2(b) of the notification by SCCA, ASCF and DMA ("**Competitor Groups**"), it is proposed that membership of each Competitor Group would be subject to the condition that the member only race at tracks and venues which are sanctioned or approved by NASR.

The effect of the proposed conduct is not intended to restrict competitors as to the tracks at which they race. NASR is concerned about competitors racing at tracks that do not meet certain minimum safety standards. The purpose is to encourage tracks to meet these minimum safety standards and thereby implement safety and risk management policies across the sport of speedway racing.

As stated above, we note that CAMS sanctions or approves tracks and venues at which events can take place within its field of motor sport.

We submit that the Competitor Groups are best placed to explain the importance of obtaining membership with their respective organisations, and to confirm the associated costs. We understand that the costs involved are relatively minimal.

- Speedcars
- Sprintcars
- Street Stocks
- Super Sedans
- V8 Dirt Modifieds

The state-based speedway racing divisions are:

- 1200cc Juniors
- 1600 Sedans
- 2 Litre Sedans
- 2nd Drivers
- 3 Litre Sedans
- 320 Sprintcars
- 350 Sprintcars
- 360 Sprintcars
- 4 Cylinder Sedans
- Auscars
- BIS Sedans
- Bombers
- Caravan Race
- Club Cars
- Club Sedans
- Crash & Bash
- Demo Derby
- Division 2 Hot Rods
- Dwarf Cars
- East Coast A Grade
- Entry Level SHSC
- Fender Benders
- Figure 8
- Ford v Holden
- Formula 100s
- Formula 200s
- Formula 400s
- Formula Stock Rods
- GOSSA Sedans
- GV Bombers
- GV Open Saloons
- GV Limited Sedans
- GP Midgets
- Heavy Hot Rods
- Improved Production
- Junior Hot Shots
- Junior Street Sedans
- Karts
- Ladies
- Light Trucks
- Limited Saloons
- Limited Sedans
- Limited Sportsman
- Limited Sprintcars
- Marsh Modifieds
- Micro Sprints
- Mini Mod Sprinter
- Mini Sprints
- Modified
- Modified Litres
- Modified Sprintcar
- Open Ladies
- Open Saloons
- Open Sedans
- Outlaw Sedans
- Outlaw Super Sedans
- Oz Sprints
- Quarter Midgets
- Ramp Race
- Restricted Sedans
- Rollover Cars
- RSA Sedans
- RSA Street Stocks
- Saloons
- Sedans
- Series Sedans
- Sigmas
- Speedway Utes
- Sprint Sedans