



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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1 April 2008

Mr Jim Muir  
Public Officer  
33 Somerset Drive  
Keysborough VIC 3173

Dear Mr Muir

### **Exclusive Dealing Notifications lodged by NASR and others**

I refer to your letter dated 18 March 2008, received on 26 March 2008, seeking clarification about the notifications lodged by NASR and others.

#### *Third line forcing notifications*

By way of background, a third line forcing notification provides immunity for conduct that might risk breaching the exclusive dealing provisions of the *Trade Practices Act 1974* (Cth). The immunity from legal action afforded by a third line forcing notification commences 14 days after the notification has been validly lodged.

The immunity afforded by a notification will only extend to the conduct which would or might constitute third line forcing as described in the notification and does not extend to any conduct engaged in before the third line forcing notification took effect.

A notification does not require parties to engage in the conduct, however it provides immunity should they choose to.

The ACCC assesses third line forcing notifications by applying the public interest test which states that the ACCC may revoke a notification if it is satisfied that the likely public benefit will not outweigh the likely public detriment from the conduct.

#### *Notification lodged by SCCA (N93301)*

Your query relates specifically to the exclusive dealing notification lodged by the Sprintcar Control Council of Australia Incorporated (SCCA).

The SCCA has lodged an exclusive dealing notification for third line forcing conduct whereby membership to the SCCA will be 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.

Should the ACCC decide that the likely public benefits from this conduct will outweigh the likely public detriments, the immunity provided by the notification will continue.

Under the notified conduct, the ACCC understands that members of the SCCA, who are required to purchase a NASR licence, will consequently be required to comply with the terms of a NASR licence including complying with all rules, policies and regulations published by NASR.

Further, tracks and venues which are sanctioned or approved by NASR will be required to adopt NASR's systems and procedures, including meeting certain safety standards and track maintenance requirements. SCCA members may only race at these tracks.

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