



# Victorian Speedway Council Incorporated

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7 April 2008

ACCC  
Mr David Hatfield  
Acting General Manager  
Adjudication Branch  
P O Box 3131  
CANBERRA ACT 3131

## WITHOUT PREJUDICE

Dear Mr Hatfield

**RE: C2008/283, C2008/287 and C2008/289**

I am writing on behalf of the Victorian Speedway Council Inc (VSC) in response to the application by the National Association of Speedway Racing Inc and National Association of Speedway Racing Pty Ltd (NASR) regarding Exclusive Dealing.

Firstly, we are concerned that NASR has submitted this application without informing the speedway tracks, speedway clubs and their members. We believe that NASR has intentionally kept this application quiet to prevent other speedway organisations making comment on their application. The VSC, like other interested parties only found out about this application on the grapevine. A member rang me and asked whether the VSC knew about NASR's application to ACCC, and at that point we didn't. **My wife searched the ACCC website and found the documentation N93299 and N93000 – Notification of Exclusive Dealing.**

Secondly, we believe that after reading the applications, NASR is trying to get permission for a practice they are already trying to enforce.

The VSC have been governing speedway state classes in Victoria since the early 1960's. We have 33 clubs, 13 classes and over 500 competitors. The VSC is formed by elected member representatives from member clubs and govern the sport under the policies, procedures and model rules as voted by our member clubs inline with the Associations Incorporation Act. Our members have a say. Our clubs have the choice to choose their own public liability insurer and the participant/competitors can choose their own personal accident cover. The VSC has three sub committees –

1. The Technical Committee – they oversee the class specifications for each of the classes with consultation with the drivers, owners and the VSC committee.
2. The Stewards Panel – they oversee the racing rules and regulations for all classes with consultation with the VSC committee.
3. Australia Speedway Accident Fund – the Trustees oversee and run the Accident Fund with consultation with the VSC committee.

All sub committees are made up of members that are elected by their peers and all members have a say in their sport.

The VSC is a member of SFI, they are an American based organisation which advises motoring groups of safety issues, equipment and attire. This entails testing and specifications in all aspects of motor sports.

NASR requested a meeting with the VSC in 1996/1997. The committee met with a NASR representative to discuss a partnership. The partnership did not eventuate as the VSC did not agree with many of NASR's ideas.

1. We believe the competitors should have a right to chose their own personal insurance and NASR would not accept the VSC Australian Speedway Accident Fund
2. The VSC did not support NASR's rationalisation plans for speedway that as discussed by the representative. The original plans he discussed for speedway throughout Australia by NASR was to close the smaller tracks, leaving only five to ten tracks operating in Victoria.
3. The VSC also felt that NASR was to be an organisation primarily operated by Promoters and therefore the competitors would lose their voice in the sport. This is slowly coming to fruition as the competitors cannot purchase a licence without personal insurance.
4. Our option to NASR for a partnership was:
  - 4.1 NASR to issue all licensing.
  - 4.2 VSC to issue all registrations.
  - 4.3 NASR members and tracks to accept the Australian Speedway Accident Fund.
  - 4.4 VSC to control class specification with consultation with the competitors.
  - 4.5 VSC together with NASR train and administer the Stewards and Scrutineers.

These terms were not accepted and that was the end any discussions between the VSC and NASR.

We believe NASR is a dictatorship and is the antitheses of free competition by trying to force tracks to purchase their public liability insurance through Marsh Insurance Pty Ltd and the participants by including NASR personal insurance as part of their licence without the option to purchase without the insurance. One comment from a member of NASR a couple of years ago was that you purchase the NASR licence and the personal insurance is free, and we all know nothing is free especially when the minimum licence is \$130.00. The VSC currently offer a senior licence for \$45.00, it has been the same amount for quite a few years now. The personal accident cover we offer is also \$45.00, which combined with our licence is still considerable less than NASR's deal. NASR does not allow their participants to purchase only their licence through them at a cheaper rate which we believe takes away their freedom of choice. Under the current NASR system a participant has to incur added cost buy purchasing a different insurance if they believe the NASR policy is not suitable for them. We believe this was investigated by the ACCC Queensland back in 2006/2007.

We also believe that the NASR insurance which is included with their licence is discriminative to certain participants. All participants have to pay the same amount for a particular licence and yet if they do not earn an income, or are on government benefits or even self employed and cannot give evidence of their income they can only claim \$200.00 per week. The VSC offer coverage at \$45.00 per year, and the benefit is for \$600.00 per week whether they are working or on government benefit. The VSC offer coverage through the Australian Speedway Accident Fund, it is an Assurance Policy and not and Insurance Policy. There was a period of time when NASR and the ASCF (Australian Saloon Car Federation) representatives were telling the participants not to take out the Accident Fund as they had discretionary powers to refuse a claim. It took the VSC a long time to explain to competitors that the NASR policy also had discretionary powers to refuse a claim, just as all insurers do. The VSC has always given the competitors a choice on the personal coverage they choose, as long as they could prove they had coverage. We have members that have taken the NASR membership with the insurance and now the VSC is concerned as after reading this documentation it seems that the participants may not be covered if they are racing at a track that is not insured through NASR's nominated insurer or at a non-sanctioned event. We have many members who have NASR and VSC licences, with only the insurance offered by NASR and we are now concerned if they are injured at a race meeting that may not be sanctioned by NASR they will not be able to make a claim. At no time have they been informed by NASR that this is the common practice. How is a competitor to know if the event is authorised or recognised by NASR. The only stipulations that the VSC has on events is that only recognised classes can compete at the same race meetings as VSC classes, this is because we know that recognised classes meet our minimum safety standards. The list of recognised classes is in our state policy which is available to all members through their clubs.

Another area of concern we have is the NASR membership/insurance sold at certain race tracks. We believe, if you are not a member of NASR and wish to go into the pit area of the four mentioned NASR tracks you may be requested to pay up to an extra \$30.00 above the normal entry price to cover the cost of insurance. However, we believe NASR only request \$5.00 for the insurance, why therefore is the consumer required to pay the extra \$25.00 dollars, also you do not get any form of paperwork or receipt saying that you have personal insurance coverage. You are made sign an indemnity waiver upon entry.

Within the 33 tracks in Victoria only three demand you have NASR membership; Avalon, Horsham, Warnambool and it is alleged that Mildura also demand NASR however it has not been confirmed. These tracks request NASR membership because of their alliance to NASR. As Warnambool and Avalon are the two major tracks in Victoria the members feel they need to have NASR membership otherwise the cost of entry to these tracks is too expensive.

The VSC had a partnership with the ASCF (Australian Saloon Car Federation) until the mid 1990's, when there was a fall out between committees because of policies. The ASCF then formed their own state body the VSCF (Victorian Saloon Car Federation), and they govern six classes; Super Sedans, Modified Productions, Production Sedans, Street Stocks, ASCF Juniors and 3 Litre Sedans. All except the 3 Litres are national classes. NASR formed a partnership with the ASCF in the late 1990's. Since the ASCF's partnership with NASR the members are slowly loosing their voice.

In regards to the specific questions asked by the ACCC letter dated 14 March 2008 reference C2008/283, C2008/287 and C2008/289:

Q 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?*

It is only important to hold a NASR licence if you wish to run at specific tracks or race a specific class of car. The VSC currently licence 13 classes in Victoria and they can run at all tracks in Victoria with the exception of Warnambool, Avalon, Horsham and Mildura. These tracks have aligned with NASR so therefore if a VSC driver wished to compete they have to take our the extra licence with NASR. VSC drivers can only compete at approved events and with only recognised classes, this is for safety reasons. Before NASR most drivers were licensed through the ASCF and the cost we believe was \$45.00 for their licence and \$45.00 for personal insurance, a total cost of \$90.00; so the drivers are now paying a minimum of \$130.00 it is hard to believe the insurance factor is free.

The only event the VSC manage is their State Title and this is with consultation with the track and/or club. The VSC allows tracks to manage their own tracks and events; we only ask that they have the appropriate public liability insurance and that they do not run non-recognised classes at the same time as recognised classes. We allow the competitors to arrange their own personal insurance.

Q 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?*

Many drivers that are forced to have NASR insurance because of their licence also purchase the Australian Speedway Accident Fund as the NASR insurance only pay a minimum of \$200.00 if you are unemployed, pension or unable to justify your weekly income.

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

The VSC offer personal insurance through Australian Speedway Accident Fund. There are only four tracks in Victoria that do not accept the VSC's Australian Speedway Accident Fund and that is Warnambool, Avalon, Horsham and Mildura we believe this is because of their alliance with NASR. We believe that prior to NASR the only track that would not accept Australian Speedway Accident Fund was Avalon. The Accident Fund is currently sold and accepted in other states.

The VSC also offer Officials Coverage for Stewards, Scrutineers and Volunteers at tracks. The cost is \$40.00 per meeting. This coverage is the Australian Speedway Accident Fund. The track must be an affiliated track and must only run recognised classes.

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

There are a few insurers that have provided different coverage to different tracks/clubs. Although this has changed since the conception of NASR as many tracks we believe were told that if they didn't use Marsh Insurance then they would not be able to race any cars that were NASR licenced. A couple of insurers come to mind, Advantage Johnson and Jardines – you would need to get this information from the tracks and/or clubs. As we stated the VSC only requires a minimum insurance and as long as the tracks do that, then they can choose their own insurers.

Q 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 the member is not adjusted.*

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

We find it hard to believe NASR may have used the term of 'instead of', as a competitor cannot get insurance instead of, only in addition to. Many competitors will obtain other insurance however you will find many wont as it is an added cost. Not being able to purchase your licence without the cost of the insurance we believe is taking away the competitors freedom of choice.

We have always purchased our Associations/Liability insurance through Marsh Insurance Pty Ltd and it has only come to our knowledge that we were under membership of NASR. I informed them that we were not a member of NASR, their response was that was okay. We then informed them that we have no intentions of becoming a member of NASR and requested they remove them from our policy. The policy then cost us approximately an extra \$1000.00.

Q4: *NASR advise that licensee/members may obtain licences from other associations and may therefore race a 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.*

This statement very much concerns the VSC as we have members that have purchased NASR licenses as well as their VSC licence thinking they have personal injury insurance. The VSC has always accepted the insurance component of the NASR licence, however after this statement the VSC will have to re-look at our policies and may not be able to accept this insurance any longer as many of our drivers compete at events that are approved by the VSC but not necessarily NASR, and some tracks do not have recognition from NASR, therefore the insurance would not cover the competitors.

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

Yes they do, in Victoria they will be either VSC or NASR.

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

When the competitors discover they might not have personal insurance at non-NASR approved events and/or tracks they will have to decided whether they are going to race there and take out extra insurance from another body, or not race because they will not have coverage.

Q 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?*

We believe a track should not require NASR approval. We also believe many tracks were intimidated into becoming a member of NASR and taking their nominated insurance because they were told that if they didn't they would not be able to run specific classes. There are however, a few tracks in Victoria who have not been intimidated by NASR and their propaganda and are still running these specific classes without NASR approval or NASR approved insurance.

Q 6: *How important is it for a sprint car driver, saloon car driver, or V8 dirt modified car driver to be a member of the SCCA, ASCF or the DMA? Are there alternative racing body organisations that operate events and/or tracks in these categories of racing?*

You will have to get the drivers to answer this question. However the VSC have their own class of sprint cars, saloon cars and recognise V8 dirt modified. These drivers do not have to be a member of an association; they do however need to be a member of an affiliated member club.

Regards  
Luke Rosemeier  
President  
Victorian Speedway Council Inc