

**EXCLUSIVE DEALING NOTIFICATIONS LODGED BY THE NATIONAL
ASSOCIATION OF SPEEDWAY RACING (NASR)**

SUBMISSIONS OF THE AUSTRALIAN SPEEDWAY ACCIDENT FUND (“ASAF”)

We refer to the exclusive dealing notifications lodged on 12 February 2008 by NASR and to the ACCC’s invitation for interested parties to make submissions.

The Australian Speedway Accident Fund (also known as the VSC Accident Fund) is a mutual aid scheme established in 1978 to provide accident benefits to members injured in the course of a speedway event. As a supplier of accident benefits, ASAF opposes NASR’s application on the basis that granting the applications would substantially lessen competition in the marketplace to a degree which would adversely affect insurance and accident benefit coverage for the speedway industry. The anti-competitive nature of the proposal has the potential to force ASAF and other providers out of the marketplace, resulting in the establishment of a monopoly for NASR.

Submissions

1. **The bundling of personal injury insurance with NASR licence fees is anti-competitive conduct.** By forcing consumers to pay an additional fee to use an alternative insurance or accident benefit provider, NASR is putting a levy on freedom of choice. As an individual can only claim through one provider if they are injured, there is very little incentive to pay twice for essentially the same product. This anti-competitive conduct creates a barrier to alternate providers entering the market or remaining in the market for accident benefits or insurance products in the speedway industry.

2. NASR has submitted that there would be significant practical issues should NASR be required to review the personal injury insurance policy of each participant at each event to ensure the insurance is current and of an appropriate standard. This is misleading, as NASR is not required to police insurance coverage within the speedway industry. It would not be difficult for promoters of speedway events to require proof that participants have appropriate insurance, or are members of an appropriate accident benefit scheme such as that conducted by ASAF.

3. Using safety as a justification for anti-competitive behaviour, NASR has in the past participated in third line forcing whereby individuals are prevented from participating in speedway events without NASR insurance, despite having alternative insurance or accident benefit coverage of an equivalent standard. The "NASR Track Operators Manual" provided as part of NASR's submissions to the ACCC states:

"All drivers, pit crew members and officials participating in a NASR sanctioned/insured race meeting must be in possession of personal accident insurance cover that specifically covers all risks relevant to speedway race meetings. Any person not in possession of such cover may be admitted to the pit area, but must not actively participate in the race meeting in any way.

Personal accident insurance cover is included as a member benefit to all NASR members and is therefore linked to the NASR photo licence, otherwise personal accident cover may be obtained that is equal or better cover, approved of by NASR. Participants are free to obtain their own alternative personal accident cover if they desire, however in the event of an accident, may only claim on one policy."

4. The adoption of this policy has resulted in anti-competitive conduct, because NASR determines whether the accident benefit cover provided by competitors is approved for the purposes of NASR events. If approval is not granted by NASR, track operators are entitled to refuse individuals the right to participate in speedway events. ASAF has been informed of instances where drivers have been refused the right to compete and access to pit areas has been denied to individuals who are members of ASAF, even though ASAF coverage meets all necessary criteria for personal accident benefits in speedway racing. It is not for NASR to determine what constitutes adequate coverage, that is something individuals should be free to determine in an informed and competitive market place.

5. It is asserted in NASR's submissions that many insurance providers are reluctant to provide insurance cover to drivers in the speedway industry. Given this reluctance, it is more important to protect organisations such as ASAF by preventing anti-competitive conduct which could result in NASR obtaining a monopoly of the insurance market for speedway drivers and industry participants. If, by the anti-competitive behaviour proposed by NSAR, ASAF and other insurers are forced out of the marketplace, NASR would be able to increase insurance premiums due to lack of alternative insurance or accident benefits coverage.

Outcomes

ASAF submits that the ACCC should reject the applications made by NASR on the basis that the anti-competitive conduct proposed would be detrimental to the speedway industry, particularly in respect of accident benefit or insurance products.

If the ACCC approves the applications, we submit that the following conditions should be imposed on NASR:

- (a) personal injury insurance should be unbundled from NASR licence fees to enable consumers to have freedom of choice without being constrained by the cost of paying twice for the same product; and
- (b) alternative accident benefit or insurance coverage be accepted as adequate for the purposes of participating in NASR speedway events to prevent further entry refusals.