

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

**FURTHER SUBMISSIONS OF THE AUSTRALIAN SPEEDWAY ACCIDENT FUND
("ASAF")**

We refer to the ACCC's Draft Notices dated 11 June 2008 and the invitation of the ACCC to make further submissions on the issues raised in the Draft Notices at the Pre-Decision Conference.

These further submissions are in respect of Exclusive Dealing Notifications N93297 – N93298 lodged by NASR which concern the issuing of NASR licences subject to the condition that the licence holder:

- (a) only race at tracks and venues which are sanctioned or approved by NASR; and
- (b) obtain membership of the relevant National and/or State and/or Regional club or association for the licence holders relevant speedway racing category.

Submissions

1. The ASAF supports the decision of the ACCC to revoke Exclusive Dealing Notifications N93297 and N93298 on the grounds that the issuing of NASR licences subject to these conditions is anti-competitive conduct.
2. There has been a general pattern of anti-competitive conduct by NASR in respect of the goods and services which are the subject of these Notifications, such as bundling accident insurance with the issuing of NASR licences. The proposed revocation of the Exclusive Dealing Notifications by the ACCC will not remove all anti-competitive conduct engaged in by NASR, though it is acknowledged that this is a starting point to break the stranglehold that NASR is attempting to exert over the speedway industry. It should be noted that NASR, and in particular its insurance arm, is a commercial organisation. For some years NASR has adopted a number of strategies that appear to be designed solely to enable it to become a monopoly supplier of speedway accident insurance.
3. In the course of these submissions other serious anti-competitive behaviour has been raised, in particular the bundling of personal injury insurance with NASR licence fees. Although paragraph 7.21 of the Draft Notices states that the de-

bundling of insurance from NASR licences “*is not a question for the ACCC to consider as part of the notified conduct because the issue of the provision of insurance has not been notified by NASR*”, it is submitted that this conduct merits further review by the ACCC, whether as part of this proceeding or separately.

4. The ACCC has identified that NASR is able to ensure that licensees have adequate insurance while maintaining a greater degree of choice (paragraph 7.19 of the ACCC Draft Notices). We submit that the ACCC should make a determination that NASR unbundle the insurance component from the NASR licence to ensure that NASR does not continue to be in breach of section 47 of the *Trade Practices Act 1974 (Cth)*.

15 July 2008