



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2008/283 & C2008/289
Contact Officer: Monica Bourke
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27 August 2008

Mr Luke Dale
c/- Level 17 Santos House
91 King William Street
Adelaide SA 5000

By email: ldale@kellyco.com.au

Dear Mr Dale,

**Re: Exclusive dealing notifications lodged by NASR and others
– final notices in respect of notifications
N93297 – N93298 and N93301 – N93303**

The Australian Competition and Consumer Commission (ACCC) has concluded its consideration of the exclusive dealing notifications lodged on 12 February 2008.

**Notifications lodged by NASR (N93297-N93298) and the Competitor Groups
(N93301-N93303)**

Based on an assessment of all the information currently before it, the ACCC is satisfied that the likely benefit to the public will not outweigh the likely detriment to the public from these notifications lodged by the National Association of Speedway Racing (NASR), the Sprintcar Control Council of Australia Incorporated (SCCA), Australian Saloon Car Federation Incorporated (ASCF) and Dirt Modifieds Australia (DMA) (together referred to as the Competitor Groups).

Accordingly, the ACCC has issued notice under section 93(3A) of the *Trade Practices Act 1974* (the Act) revoking third line forcing notifications lodged by NASR (N93297 and N93298), the SCCA (N93301), ASCF (N93302) and DMA (N93303). The immunity provided by these notifications cease to be in force on **29 September 2008**.

A copy of the notice is attached.

Application for review

Pursuant to section 101A of the Act, a person dissatisfied with any one of these notices may apply to the Australian Competition Tribunal (the Tribunal) for its review. An application for review must be made within 21 days of the date of the notice; that is, on or before **17 September 2008**.

An application for review of any of the notices should be lodged directly with the Tribunal. The Tribunal is a separate body from the ACCC and is located within the Federal Court of Australia. For further information about the process involved in reviewing decisions in the Australian Competition Tribunal please refer to the Tribunal's website located at <http://www.competitiontribunal.gov.au>.

Notifications lodged by Perth Motorplex and Avalon Raceway

For the reasons set out in the attached notice, the ACCC does not intend to take any further action in respect of the notifications lodged by Placide Pty Ltd as trustee for the Metro Speedway Unit Trust trading as Speedway Perth Motorplex (Perth Motorplex) and Corio Park Pty Ltd trading as Avalon International Raceway (Avalon Raceway) (notifications N93304 and N93305) at this time.

The ACCC may review a notification and act to remove the protection afforded by the notifications at a later stage if the likely public benefits no longer outweigh the likely public detriments from the conduct.

To the extent that other tracks might be engaging in similar conduct, they will be doing so without legal protection under the Act. The ACCC notes that if a significant number of tracks began to only accept NASR licences as a condition of accessing the track and pit facilities, the public detriments arising from the notifications may change and the ACCC may reconsider the protection afforded to such notifications.

Exclusive dealing notifications lodged by NASR

Further, for the reasons set out in the attached notice, with respect to the conduct notified in exclusive dealing (other than third line forcing) notifications lodged by NASR (N93299 and N93300), the ACCC does not have any evidence at this time to suggest a purpose, effect or likely effect of this conduct is to substantially lessen competition in a relevant market. As such, the ACCC does not intend on taking any further action at this time in respect of these notifications.

The ACCC may review a notification and act to remove the protection afforded by the notifications at a later stage.

Other matters

During the public consultation process the ACCC has received many concerns alleging potential breaches of the Act by various industry participants.

The ACCC encourages NASR and the industry to review current practices to ensure that they are compliant with the Trade Practices Act.

Staff from the ACCC are available to discuss this further with NASR should it assist.

This letter has been placed on the ACCC's public register and website. If you wish to discuss any aspect of this matter, please contact Monica Bourke on (02) 6243 1351 or via email at monica.bourke@acc.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to be 'R. Chadwick', with a long horizontal flourish extending to the right.

Dr Richard Chadwick
General Manager
Adjudication Branch