



**Australian
Competition &
Consumer
Commission**

Our Ref: N93304-05
Contact Officer: Monica Bourke
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28 January 2010

Mr Gary Miocevich
Director
Perth Motorplex
PO Box 241
KWINANA WA 6966

CC: Mr Jeff Drew, Avalon Raceway
Mr Paul Trengove, NASR

By hard copy and email: speedway@motorplex.com.au

Dear Mr Miocevich,

Notifications N93304-N93305 lodged by Perth Motorplex and Avalon Raceway

As you are aware, on 11 June 2008 the Australian Competition and Consumer Commission (ACCC) decided not to take any further action with respect to notifications N93304-N93305 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).

The purpose of this letter is to inform you that, on 28 January 2010, the ACCC has issued draft objection notices in respect of Notifications N94032-N94034 lodged by Brisbane International Speedway Pty Ltd, Murray Bridge Sporting Car Club & Motorcycle Club Incorporated and Premier Speedway Club Warrnambool. The conduct the subject of those notifications is largely similar to the conduct you notified in 2008. For your information, a copy of the ACCC's draft objection notices and letters sent to interested parties with respect to those notifications is attached.

As you are aware, the ACCC may revoke the protection afforded by a notification at any time where it is satisfied that the likely benefit to the public from the notified conduct will not outweigh the likely detriment to the public from the notified conduct.

From information received during its assessment of notifications N94032-N94034, and the draft objection notices issued with respect to those notifications, the ACCC is concerned that the public benefits of the conduct the subject of your notifications no longer outweighs the public detriments of that conduct. Should the ACCC be satisfied of that, it may proceed to issue draft objection notices proposing to revoke notifications N93304-N93305 currently providing you with legal immunity.

In determining whether it is so satisfied, the ACCC will have regard to a number of matters, including:

1. The availability of NASR day licences to access track facilities

In its 11 June 2008 decision not to revoke Perth Motorplex and Avalon Raceway's notifications, at that time the ACCC placed weight on the ability for competitors to obtain a NASR day licence to access track facilities for up to two events per season, as a mitigating factor reducing the impact of any public detriment resulting from the conduct in notifications N93304–N93305. The ACCC understands that the terms in which competitors can race under a NASR day licence have been restricted such that the day licence is now not available for high-powered race events, such as sprintcar and super sedan racing.

2. Barriers to entry and expansion for alternative licensing bodies

The ACCC is concerned that restricting the type of licence accepted by a track restricts competing licensing bodies from expanding their licence base and raises barriers to a new body wishing to establish itself in the marketplace, particularly on a national level.

3. The existence of substitute tracks

The ACCC is concerned about the existence and substitutability of alternative tracks to your track, in particular with regards to their proximity to your track and the events they host.

4. Safety standards and risk management procedures

The ACCC considers there may be other means for achieving safety standards and risk management procedures other than through the notified conduct.

Before the ACCC makes a decision about whether to issue draft objection notices in relation to your notifications, the ACCC wishes to give you an opportunity to comment on any one or all of the matters described above, as well as any other matter you consider relevant to the assessment of public benefits and detriments in relation to your notifications.

It would be appreciated if you could provide a response to the above by **Monday, 15 February 2010**.

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

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch