

**Australian Competition
&
Consumer Commission**

PRE-DECISION CONFERENCE

Minutes

**Notifications N93304-N93305
lodged by
Placide Pty Ltd (Perth Motorplex)
and Corio Park Pty Ltd (Avalon Raceway)**

17 June 2010

The information and submissions contained in this minute are not intended to be a verbatim record of the pre-decision conference but a summary of the matters raised. A copy of this document will be placed on the ACCC's public register.

**Pre-Decision Conference: Notifications N93304-N93305 lodged by Placide Pty Ltd
(Perth Motorplex) and Corio Park Pty Ltd (Avalon Raceway)**

17 June 2010

Australian Competition and Consumer Commission offices in Melbourne, Adelaide
and Perth via video conference facilities

Attendees:

Melbourne

Australian Competition and Consumer Commission

Ed Willett, Commissioner

Trent Glover, Lawyer, Trade Practices and Litigation Unit

Joanne Palisi, Director, Adjudication Branch

Monica Bourke, Senior Project Officer, Adjudication Branch

National Association of Speedway Racing

Dale Gilson, General Manager

Neil Sayer, Chairman

Avalon Raceway

Jeff Drew, General Manager

Competitor/Driver

Ron Bergmeier

Adelaide

National Association of Speedway Racing

Paul Trengove, Competition Manager

Luke Dale, Kelly & Co, legal representative

Perth

Perth Motorplex

Kevin Prendergast, General Manager

Gary Mioevich, Director

National Dirt Racers Association

Gwen Nankivell, WA Representative

West Coast Speedcars

Alan Meakins, President

Christine Meakins, Secretary

Australian Quarter Midget Association Inc

Neville Allpike, President

Competitor/Driver
Trevor Reakes

Conference commenced: 11.15am AEST

Commissioner Ed Willett welcomed attendees, made some introductory remarks outlining the purpose of the conference, declared the pre-decision conference open and invited the party that called the conference, the National Association of Speedway Racing (NASR) to make an opening statement.

Mr Paul Trengove of NASR made the following comments during his opening statement and throughout the conference:

- NASR is the recognised peak body governing the sport of speedway racing. It is internationally recognised by the Federation Internationale de l'Automobile (FIA) through the delegation from the Confederation of Australian Motor Sport (CAMS). CAMS also delegates authority to governing bodies for other forms of motor racing, for example drag racing, rallying, motorcycling.

NASR has introduced a set of safety standards to the sport. Its aim is to provide uniformity across the sport and to assist its growth.

- The notifications relate only to two tracks – Perth Motorplex and Avalon Raceway. There are 75 alternate tracks across Australia where holding a NASR licence is not a requirement to access the track. Mr Trengove submitted that these two tracks engaging in the conduct it is not going to saturate the market.

Perth Motorplex and Avalon Raceway approached NASR to seek to enforce NASR's rules and judicial processes at their venues. More tracks are supporting NASR and want to follow its standards and rules. Perth and Avalon were the first to approach NASR and they lodged the notifications. Mr Trengove believes that the majority of tracks want to conform to NASR's standards.

Commissioner Willett questioned whether the ACCC should expect to see similar notifications lodged by other tracks. Mr Trengove responded that he would consider it likely however it is a decision for each individual track. Mr Trengove noted that he has not received any further interest at this stage from alternate tracks.

Commissioner Willett noted that while the draft notices are in respect of only two tracks, the public benefits claimed to result from the notified conduct would appear to be stronger if all tracks came under the auspices of NASR. Mr Trengove responded that if every track were to operate under one standard, the sport would grow considerably. Mr Trengove noted that speedway is a sport where competitors travel to tracks around the country to compete and a national body which could implement national standards would result in a large benefit for the growth of the sport.

- NASR submitted that the notifications do not prevent alternate licensing bodies from competing with NASR.

One day licences are no longer issued to race in high-powered categories of racing eg sprintcars. Non-NASR drivers may, for a small cost, race in the majority of speedway racing categories with a day licence. Mr Trengove advised that the change to the one day licence was not for the reason to prevent competitors from entering events. Mr Trengove advised that NASR will address the one day licence terms if the ACCC considers it results in an anti-competitive detriment. In response to questions from Commissioner Willett about what constitutes a high-powered race category, Mr Trengove provided information about NASR's licensing categories, advising that AA licences apply to sprintcars and 3 or 4 other categories of racing.

Mr Trengove submitted that while the ACCC acknowledges there is a public benefit through NASR's safety measures, the revocation of the notifications prevents NASR from implementing their standards.

Commissioner Willett asked about the safety benefits from bundling the NASR licence and personal accident insurance. Mr Trengove responded that personal accident insurance is provided as a member benefit. Each year NASR seeks tenders to provide the insurance so it is able to achieve better premiums and benefits.

In response to Commissioner Willett's question regarding the pre-conditions for obtaining a licence for high-powered vehicles, Mr Trengove advised that the applicant obtains a licence application form, undergoes a medical examination through NASR and once the medical has been passed the applicant applies for a licence through the relevant governing category body (for example to race a sprintcar the applicant will apply to the Sprintcar Control Council of Australia). This body will then decide whether or not to approve the application. For the first three race meetings for new licence holders, the Chief Steward is made aware that there is a new competitor, and the competitor will start at the rear of field for these meetings. NASR works closely with tracks, officials and clubs to ensure the safety of competitors.

Mr Trengove advised that the NASR Board consists of four competitor representatives, four promoter representatives and one independent representative.

Mr Dale Gilson, NASR, provided some background about his appointment to the role of general manager of NASR, advising that he is independent to the sport. Mr Gilson advised he wants to help the sport grow. Mr Gilson also made the following comments:

The NASR Board reinvests all monies to improve the sport.

NASR provides safety standards, a drug policy, judicial processes and marketing activities. Mr Gilson advised that the Board of NASR wants to get to the overarching governance level.

- Mr Gilson advised that he has had some worthwhile discussions with industry groups and hopes that some of the minority groups will join NASR.

Mr Gilson submitted that tracks want to conform to NASR's standards and questioned that if NASR is offering the best product, why is it that the tracks are not allowed to do so?

Mr Jeff Drew, Avalon Raceway advised that Avalon Raceway has been operating since 1976 and has had experience dealing with multiple licensing bodies. Mr Drew submitted that he supports NASR and the notifications. Mr Drew submitted that there has been input from divisional groups in the development of NASR's rules.

Mr Gary Miocevich, Perth Motorplex opposes the draft notices and reiterated the Perth Motorplex's submission made in February 2010. Mr Miocevich also made the following comments throughout the conference:

- Perth Motorplex was built by the West Australia government and Placide Pty Ltd has been appointed to run the venue. The company is obliged to run the venue efficiently and responsibly. The venue hosts a range of events other than speedway related events. Perth Motorplex is the most attended speedway venue in Australia.

Mr Miocevich supports NASR and advised that the bodies it engages with for other motor sport events all have delegated authority from CAMS.

Perth Motorplex is interested in seeing the sport grow. A common governing body will strengthen the sport as all competitors will be subject to the same standards, rules and judicial system. Mr Miocevich submitted the public interest is being damaged by encouraging a fragmented governance of the sport.

If Perth Motorplex is required to accept alternate licences it may be required to subcontract the additional work involved in checking licences which is costly and inefficient.

The events held at Perth Motorplex involve serious occupational health and safety issues. Mr Miocevich submitted he is personally responsible for the operation of the events at the venue and the Perth Motorplex goes above and beyond what is legally required to deliver a safe environment.

- NASR provides an effective judicial system. If all competitors are under NASR then there is no opportunity for a suspended driver to go outside the system.
- In response to questions from Commissioner Willett about who runs the events held at the Motorplex, **Mr Prendergast of Perth Motorplex** advised that the Perth Motorplex operates and runs events held at its venue under NASR's rules. The majority of officials overseeing events are NASR officials.
- The opportunity is there for alternate bodies to NASR to demonstrate that they meet appropriate standards to hold an event at Perth Motorplex. For example, some car clubs have held tarmac rallies at the Motorplex, however these events are small and do not involve public admissions. Mr Miocevich advised that such events would have to fall under the auspices of a peak sanctioning body.

Mr Ron Bergmeier, Super Sedan competitor, submitted there is a need for a peak body and NASR is doing a good job. However Mr Bergmeier considered NASR should consult with various groups more to move the sport forward on a voluntarily basis rather than by means such as the notifications. Mr Bergmeier submitted that all groups should be engaged to form a cohesive group.

Mr Bergmeier considered that the easiest way to form the cohesive group would be to adopt NASR's standards, however a willingness to trust NASR needs to be developed.

Mr Bergmeier submitted that the notifications prohibit competitors in the area who do not have a NASR licence from competing at the notifying tracks.

Ms Gwen Nankivell of the National Dirt Racers Association (NDRA) supports the draft notices and made the following comments throughout the conference:

Since 2008 the NDRA's membership has grown from approximately 600 to 3000 members. Some of the NDRA's members are also members of ASCF Speedway Sedans Australia. Commissioner Willett requested that the NDRA provide information substantiating its membership numbers.

- In response to questions from Commissioner Willett regarding the NDRA's licensing process, Ms Nankivell advised that applicants apply through their club and the NDRA will check the background of the applicant, including whether they have been suspended by an alternate body. Ms Nankivell advised that a licence will not be issued by the NDRA if the driver is suspended. The NDRA will suspend a licence if they are made aware of a current member being suspended by an alternate body.
- The NDRA has a strong interest in seeing its drivers able to participate in events at Perth Motorplex.

Mr Neil Sayer, NASR and ASCF Speedway Sedans Australia refuted the claims made by the NDRA regarding its membership size. Mr Sayer advised that the ASCF has over 4000 members. The ASCF no longer provides speedway licences, but has now adopted NASR's licence.

Mr Alan Meakins, West Coast Speedcars submitted that the governing body of the sport should be decided by a vote so that clubs can have greater input. Mr Meakins submitted that this would lead to a fairer rule book, better access to venues, and less bickering within the industry.

Mr Meakins advised that its members are required to join a second club in order to obtain a NASR licence and as a result many members are dropping out of the sport.

Mr Neville Allpike, Australian Quarter Midget Association submitted that there are over 100 different divisions of racing and one body governing all these divisions is not effective. Mr Allpike advised that different divisions have different requirements, for example in relation to track preparedness. Mr Allpike submitted there should be a peak body governing each division of racing with an overarching body. Licences should be issued by the government.

In response to questions from Commissioner Willett, Mr Allpike advised that members of the Australian Quarter Midgets Association are prevented from racing at Perth Motorplex because they do not hold a NASR licence and because their events do not attract large crowds.

Mr Trevor Reakes, driver outlined his history of participation in speedway noting that everyone has a duty of care and is responsible for their own actions. Mr Reakes is concerned that juniors are able to race in high-powered vehicles under a NASR licence. Mr Reakes advised that he does not race at the Perth Motorplex by choice because he does not support the arrangement that drivers are required to hold a NASR licence. Mr Reakes is concerned that the sport has lost its grassroots. Mr Reakes supports the draft notices.

Commissioner Willett confirmed that no party wished to make any further comments. Commissioner Willett closed the conference by noting that parties could provide further written submissions to the ACCC by Thursday 8 July 2010 and that the ACCC would provide participants with a record of the conference, which would also be placed on the ACCC's public register.

Conference closed: 12.50pm AEST