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Sanjay Schrapel
Associate
HWL Ebsworth

By email: sschrapel@hwle.com.au

Dear Mr Schrapel

Collective Bargaining Notifications CB00324-325 lodged by Kwinana Motorplex Pty Ltd

I refer to the above collective bargaining notifications lodged with the Australian Competition and Consumer Commission (the ACCC) on 20 November 2015.

The ACCC has finalised its assessment of this notification. The ACCC has decided to allow Kwinana Motorplex to collectively negotiate the terms and conditions for the supply of drag race sanctioning services with the Australian National Drag Racing Association (ANDRA) and the International Hot Rod Association (IHRA).

The ACCC is of the view that the collective bargaining arrangements will result in public benefits that will outweigh the likely detriment to the public, discussed below.

The notified conduct

Kwinana Motorplex Pty Ltd proposes to collectively negotiate on behalf of itself and two other drag car racing facilities in negotiations with the Australian National Drag Racing Association (ANDRA) and the International Hot Rod Association (IHRA) about agreed terms and conditions and prices paid by the facilities for sanctioning services.

The immunity conferred by the notification commenced automatically on 4 December 2015.

ACCC consideration

The ACCC may remove the statutory protection provided by a collective bargaining notification if the ACCC considers that the public benefits likely to result from the collective bargaining arrangement will not outweigh the anti-competitive detriments.

The ACCC has assessed the collective bargaining arrangements proposed by Kwinana Motorplex and considers that the arrangements are likely to result in public benefits in the form of transaction cost savings and greater input by the drag car racing facilities into negotiations with drag racing sanctioning bodies, which are likely to result in more efficient outcomes.

The collective bargaining arrangement is also likely to lead to public benefits arising from the entry of the IHRA to the Australian market, which would be unlikely to occur in the absence of IHRA being able to deal with the facilities on a collective basis.

Balanced against this, the ACCC considers that the potential for the arrangements to result in public detriments is limited, in particular by the composition of the collective bargaining group and the voluntary nature of the arrangements for IHRA, ANDRA and the members of the group. The arrangements do not include a collective boycott.

On the basis of the information available, the ACCC considers that the likely benefits to the public from the collective bargaining arrangements will outweigh the likely anti-competitive detriments to the public. Accordingly, the ACCC does not intend to take any further action in relation to the notifications at this stage.

As with any notification, the ACCC may act to remove the statutory protection afforded by the notification at a later stage if it is satisfied that the likely benefit to the public from the collective bargaining arrangement no longer outweighs the likely detriment to the public.

A copy of this letter has been placed on the ACCC's public register. If you wish to discuss this matter, please contact Elizabeth Batten on (02) 6243 1359 or by email to adjudication@acc.gov.au.

Yours sincerely



Baethan Mullen
Acting General Manager
Adjudication