

Case number: NST-E26-576

Case Title: Stop & Seal Team Racing v Motorcycling Australia

## Determination

### National Sports Tribunal General Division

sitting in the following composition:

Member Simon Philips

in the arbitration between

**Stop & Seal Team Racing**

*(Applicant)*

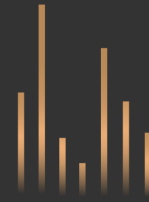
Represented by Nathan Marshall, Legal Representative

And

**Motorcycling Australia**

*(Respondent)*

Represented by Ian Fullagar, Legal Representative, Peter Doyle, Chief Executive Officer, and Simon Maas, Sporting Director

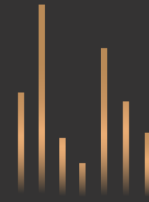


## PARTIES

1. The Respondent, Motorcycling Australia Ltd (**MA**) (the **Respondent**) is the National Sporting Organisation (the **NSO**) and the national governing body with respect to Motorcycle Sport in Australia. According to the Respondent's Constitution, one of its objects is to promote, control, manage and conduct Motorcycling events, competitions and championships.
2. The Applicant, Stop and Seal Pty Ltd (the **Applicant**) is a participant in the 2026 Australian Superbike Championship (the **ASBK Championship**) which is one of the motorcycling championships conducted by the Respondent.

## INTRODUCTION

3. On 13 January 2026, the Respondent informed participants in the ASBK Championship (including the Applicant) that a limit was being introduced on the permissible engine speed of Ducati motorcycles participating in the ASBK Championship such that Ducati V4R motorcycles would be subject to a limitation on Revolutions Per Minute (**RPM**) of a maximum of 15,500 RPM (**Ducati RPM Limit**).
4. The Applicant contends that the imposition of this limit was invalid and not in accordance with the rules and regulations which govern the conduct of the ASBK Championship, including the Manual of Motorsport (the **MOM**), the General Competition Rules (the **GCRs**) and the ASBK Sporting Regulations (the **ASBK Regulations**) published by the Respondent.
5. On 17 February 2026, the Applicant lodged an application with the National Sports Tribunal (the **NST**) which requested that the NST seek to determine its dispute with the Respondent by arbitration and sought an outcome such that the Ducati RPM Limit would be revoked (**Application**).
6. On 13 March 2026, the Applicant and the Respondent signed an Arbitration Agreement (the **Arbitration Agreement**). In the Arbitration Agreement, the parties agreed:
  - (a) that the jurisdiction of the NST in this matter is engaged by section 23(1)(b)(ii) of the *National Sports Tribunal Act 2019* (the NST Act) via the mutual agreement of the parties;
  - (b) that Simon Philips was to be the NST Member appointed to hear (and determine) their dispute;
  - (c) that the arbitration in this matter could be determined on the papers;
  - (d) to a procedural timetable for the arbitration which provided for the parties to file their evidence, material and submissions between 13 and 19 March 2026, and asked that the NST Member to determine the dispute before 27 March 2026; and



- (e) that the dispute the subject of the arbitration concerns whether the Respondent complied with the requirements of the MOM or the ASBK Regulations to impose the Ducati RPM Limit.
7. On 20 March 2026, in accordance with the agreed procedural timetable, I informed the parties of the substance of my determination in this matter and provided them with (short) Written Reasons for my determination. I also indicated that, in accordance with the terms of the Arbitration Agreement, the agreed procedural timetable and the practice and procedures of the NST, I would provide more fulsome Reasons for Determination as soon as practicable (and if possible, within 5 business days).
8. This document comprises my full Reasons for Determination in this matter.

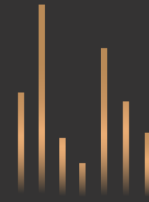
#### **NST JURISDICTION**

9. The jurisdiction of the NST in this matter is engaged by section 23(1)(b)(ii) of the NST Act via the mutual agreement of the parties as recorded in clause 2.1 of the Arbitration Agreement.

#### **FACTUAL BACKGROUND**

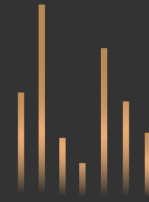
10. While I have considered all the facts, allegations, legal arguments and evidence submitted by the parties I refer in this Determination only to the submissions and evidence which I consider necessary to explain my reasoning in arriving at my determination of this matter.
11. On 8 January 2026, the Respondent sent to the members of the Australian Road Race Commission (the **RRC**) a draft copy of the 2026 ASBK Regulations for the RRC to review.
12. On 9 January 2026, the Respondent sent an email to the RRC (and members of ASBK Management) which provided an overview of the changes and developments planned for the ASBK Championship (and the ASBK Regulations) for 2026. This overview included a reference to 13 separate items which the Respondent regarded as important for the future of the ASBK Championships. Item 13 of this overview related to the introduction of the Ducati RPM Limit and read as follows:

*“13. Ducati RPM limit had been reduced to 15,000 rpm (see attached ECU document). After ASBK receiving a number of submissions for and against additional performance components for the Yamaha R1 with these submissions sighting better parity between the Ducati & Yamaha. ASBK Management reviewed the submissions, data submitted, recent race results, top speeds and championship history to determine that some adjustment was warranted as the Ducati clearly has a speed advantage. In reviewing the possibility options and taking into account the “shorter 5 round” 2026 ASBK Championship (for transition to summer) and the knowledge the new Ducati is highly likely for the 2027 ASBK*



*Championship with a faster motorcycle changing to Motec. It was agreed by the ASBK Management Team to reduce the rpm of the Ducati as a sensible, low cost and easy solution to this topic. With the ASBK Management reserving the right to apply ASBK Sporting Regulation 4.4 (Performance Balancing) throughout the 2026 ASBK Championship if/as needed.”*

13. On 13 January 2026, having been provided with the draft proposed ASBK Regulations for 2026, the RRC indicated (by email dated 13 January 2026) that it did not have any concerns in relation to those proposed regulations. Once a particular query (unrelated to the Ducati RPM Limit) had been addressed, the RRC confirmed (by email sent at 1:18pm on 13 January 2026) its approval of those regulations and that it was happy to proceed with the proposed ASBK Regulations which had been provided by the Respondent.
14. On 13 January 2026 (at 4:47pm), the Respondent released Competitor Update No 1 bulletin which amongst other things provided information to competitors in the ASBK Championship about the upcoming 2026 ASBK competition, including in relation to the 2026 ASBK Regulations (a copy of which was attached by hyperlink to the Update bulletin). This Competitor Update included notification that the Ducati Superbike RPM limit had been reduced to 15,500 RPM and a hyperlink to an ECU List which set out this requirement and other homologation requirements (the **ECU List**).
15. The imposition of the Ducati RPM Limit was new and had not been imposed for the 2025 (or any relevant earlier) ASBK competition.
16. On 29 January 2026, the solicitor for the Applicant, Mr Nathan Marshall, wrote to the Respondent and requested that the Respondent provide to him copies of relevant documentation with respect to the Respondent’s publication of the ECU List, including all performance balancing data and testing parameters and results provided to the Rules and Technical Committee. In this letter, the Applicant indicated that if it did not receive the documentation requested from the Respondent within 7 days, it reserved its rights to issue urgent interlocutory proceedings at short notice to restrain the holding of races within the ASBK Championship (including races to be held on 20-22 February 2026) and the implementation of the Ducati RPM Limit.
17. On 5 February 2026, the solicitor for the Respondent, Mr Ian Fullagar, wrote to the Applicant (via Mr Marshall) responding to the Applicant’s letter of 29 January 2026. In this response, the Respondent did not provide the documentation which had been requested by the Applicant. It did however set out in some detail the background to the introduction of the Ducati RPM Limit and the manner in which this change had been communicated to participants. In so doing, the Respondent:



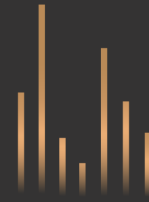
- (a) referred to the 2026 ASBK Regulations and Competitor Update No 1 which had been issued on 13 January 2026;
  - (b) indicated that no other participant in ASBK Championship had formally complained about the Ducati RPM Limit and that Ducati Australia had been made aware of the requirement to adjust the RPM limit and had assisted with technical support on this topic; and
  - (c) pointed out that the Respondent develops and approves rules via agreed procedures and that those who do not agree with any rules can either not enter a race or submit a Rule Change Request.
18. On 11 February 2026, the Applicant (via Mr Marshall) responded to the Respondent's letter of 5 February 2026. In this response letter, the Applicant (in summary form) asserted the following matters:
- (a) the Respondent had failed to produce the material requested by the Applicant in its letter of 29 January 2026;
  - (b) Given the Respondent's failure to produce the requested material, it should be assumed that such material did not exist, giving rise to conclusions that there is no evidence to support a rule change to homologate<sup>1</sup> Ducati machines from having an unfair advantage and that the Respondent had failed to observe its own rules with respect to authorising rule changes;
  - (c) The failure to consider a rule change in the absence of evidence is a breach of the principles of natural justice and therefore liable to be set aside;
  - (d) the Respondent had failed to comply with its own procedures to change the rules, in particular the requirements set out in the MOM to submit rule changes by the end of February each year, with such changes to be considered by a Rules and Technical Committee and to be the subject of public consultation and further consideration by the Rules and Technical; and
  - (e) In the event that the Respondent did not withdraw the Ducati RPM Limit within 7 days, the matter should be referred to the NST.

#### **PROCEEDINGS BEFORE THE NST**

- 19. As noted above, the Applicant filed its Application with the NST on 17 February 2026.
- 20. Also as noted above, in the Arbitration Agreement, the parties agreed:

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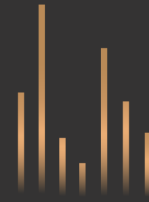
<sup>1</sup> Homologation is the process of the official certification, approval, or ratification of a vehicle to ensure it complies with relevant technical regulations.



- (a) that I was to be the NST Member appointed to hear (and determine) the dispute and that the arbitration in this matter could be determined on the papers; and
  - (b) to a procedural timetable for the arbitration which provided for the parties to file their evidence, material and submissions between 13 and 19 March 2026, and asked that the NST determine the dispute before 27 March 2026.
21. In accordance with the agreed procedural timetable:
- (a) the Applicant provided its written submissions, evidence and other documents relied upon on 13 March 2026;
  - (b) the Respondent provided its written submissions, evidence and other documents relied upon on 18 March 2026; and
  - (c) the Applicant provided its written submissions in reply and other documents relied upon in reply on 19 March 2026.
22. As the parties had agreed in the Arbitration Agreement that the matter could be determined on the papers (unless I determined that a hearing was required), and I did not consider that a hearing was required, there was no hearing in this matter, which I was able to determine on the papers (as agreed by the parties).

### APPLICABLE RULES

23. The following represents a summary of what appeared to me to be the applicable rules which are germane to the determination of the primary issue in dispute in this matter (namely whether the Ducati RPM Limit was validly made).
24. Each year the Respondent publishes a MOM which contains the GCRs which in turn provide the overarching rules for competitive motorcycle racing in Australia.
25. Clause 1.5 of the MOM provides that the Respondent may make by-laws (which must be consistent with the GCRs) which amongst other things may proclaim model Supplementary Regulations (the **SRs**) and may establish National and State Championships, and for such purposes may define criteria for the eligibility of Motorcycles, and may prescribe such matters, acts or things necessary for the full and effective operation of the GCRs.
26. Each year, the Respondent publishes the ASBK Regulations which regulate the conduct of the ASBK pursuant to the GCRs, and appear to be the SRs for the purposes of the GCRs.
27. Clause 1.5 of the ASBK Regulations provides that the management of the ASBK Championship will be carried out by the Event Management Committee comprising the Promoter (being the



Respondent), the ASBK Championship Race Director and Clerk of the Course or other persons appointed from time to time (collectively, the **ASBK Management**).

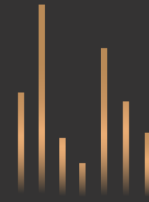
28. Clause 4.4 of the ASBK Regulations (headed Performance Balancing) (**Clause 4.4**) provides performance balancing could be applied by the ASBK Management with respect to particular motorcycles in order to maintain equality (or performance) between competing machines. Clause 4.4 reads as follows:

*“The ASBK Management Team reserve the right to applying [sic] balancing to any machines in a class as they see fit in order to maintain equality amongst machines. Methods may include but are not limited to the following:*

- *Rev Limit and*
- *Weight Limit Change.*

*The decision to apply the balancing method will be taken by ASBK Management in consultation with the MA Road Race Commission at any time deemed necessary to ensure fair competition. Performance balancing will be documented by competitor bulletin and published in the competition section of the ASBK website- asbk.com.au.”*

29. Clause 4.4 of the ASBK Regulations is contained within section 4 of the ASBK Regulations (headed Technical Regulations). Section 4 contains detailed technical regulations pertaining to the conduct of the ASBK Championship, including regulations relating to matters such as requirements for and parameters of Technical Inspections and Eligibility Checks of, and tyres to be used on, motorcycles used in ASBK competitions, fuel and safety equipment requirements and standards and machine eligibility and modification rules.
30. Clause 4.4 requires the ASBK Management to consult with the Respondent Road Race Commission (the **RRC**) in relation to any decision to apply any balancing method, and that any such decision can be taken at any time deemed necessary to ensure fair competition. The corollary of this is that the ASBK Management could not, acting reasonably, decide to apply a balancing method other than in consultation with the RRC or for a purpose other than to ensure fair competition.
31. The purpose and intent of Clause 4.4 is clear on the face of the regulation. The competition organiser expressly reserves the right to apply (performance) balancing to particular machines in a class of motorcycles in order to maintain equality amongst different machines in order to ensure fair competition. In circumstances where competitors in the ASBK Championship are each riding on different (rather than standard) motorcycles, it is easy to see why it is necessary for the competition organisers to have the ability to impose balancing requirements on a particular motorcycle in order to ensure fair competition. Otherwise, there would be a risk that the competition would not be between riders of motorcycles but instead would be between the constructors and modifiers of motorcycles.



32. Clause 4.17.1 of the ASBK Regulations (headed General Rules - Homologation) provides that for any competition, the Respondent and/or the ASBK Management may require that any machine, or any part of a machine be homologated, and that for homologation<sup>2</sup> details, the Respondent and/or the ASBK Management should be contacted. This provision is consistent with, and in similar terms to, clause 6.9.1.1 of the GCRs which in substance is in the same terms as Clause 4.17.1 of the ASBK Regulations.
33. In addition to the rules and regulations referred to above, the Applicant referred in its written submissions to, and sought to rely upon, the following provisions of documents which regulate or govern the conduct of motorcycling in Australia:
- (a) clause 1.3.1.2 of the GCR's which stated the GCR's were made under Clause 15 of the Respondent's Constitution; and
  - (b) aspects of page 6 of the MOM/GCRs which provided for a mechanism and timing for the submissions for alterations, deletions or additions to the next annual MOM (by way of a Rule Change Request), consideration of such requests by the Respondent's Rules and Technical Committee, public feedback as to comments by the MA Rules and Technical Committee and determination by that committee as to whether the request for a rule change should be accepted.

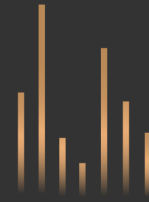
## MAIN SUBMISSIONS OF THE PARTIES

### *Submissions of the Applicant*

34. In summary form, the Applicant made the following submissions in support of its application.
35. *First*, as the imposition of the Ducati RPM Limit involved a change to the ASBK Regulations, but those regulations did not have an express process by which they could be changed, then the process for changing the ASBK Regulations must (impliedly) be the same as that required to change the MOM and/or the GCRs, and the process (mandated in the MOM) required for rules to be changed was not adopted in particular in the following respects:
- (a) the Respondent did not provide a Rule Request Form (as requested by the Applicant on 29 January 2026) leading to an inference that no such form exists;
  - (b) the relevant rule change was not deemed by the Respondent to be urgent, in that a Bulletin for the rule change has not been issued; and

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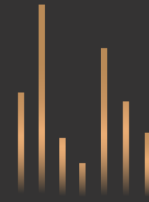
<sup>2</sup> Homologation is the process of the official certification, approval, or ratification of a vehicle to ensure it complies with relevant technical regulations.



- (c) the minutes of the relevant Technical Committee did not raise the Ducati RPM Limit.
36. *Second*, there is no evidence that the Ducati RPM Limit relates to performance balancing for the purposes of Clause 4.4 or was required to homologate the motorcycles used in the ASBK Championship.
37. *Third*, the Ducati RPM Limit is invalid because, contrary to Clause 4.4, no competitor bulletin notifying the performance balancing change was published in the competition (or other) section of the ASBK Championship website.
38. *Fourth*, in exercising performance balancing pursuant to Clause 4.4, the Respondent was required to follow the principles of procedural fairness and ensure that any changes had a rational basis and were not made in a capricious or unfair manner, but has not provided any, or only insufficient, evidence which would justify the imposition of the Ducati RPM Limit, meaning that the Respondent's decision was not based on evidence related to performance balancing and was unreasonable.

#### *Submissions of the Respondent*

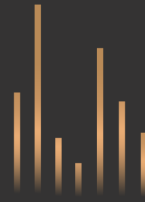
39. In summary form, the Respondent made the following submissions in opposition to the Application.
40. *First*, having set out the regulatory context and relevant provisions of the MOMs and ASBK Regulations, the Respondent submitted that the application of performance balancing to any particular motorcycle used in ASBK competitions pursuant to Clause 4.4 did not involve any rule changes (to the MOMs or the GCRS) but instead involved performance balancing directed to a specific machine. As such, the process for rule changes specified in the MOMs did not need to be followed in introducing the Ducati RPM Limit.
41. *Second*, the power and authority granted to the ASBK Management Team to apply performance balancing to any machines in order to maintain equality amongst machines pursuant to Clause 4.4 can be exercised at any time (deemed necessary to ensure fair competition) in consultation with the RRC. Here, the ASBK Regulations, including the Ducati RPM Limit, were submitted to and approved by the RRC, meaning that the ASBK Management (including the Respondent) had complied with (and indeed exceeded), the requirement under Clause 4.4 that the RRC be consulted in relation to any decision to apply a performance balancing method.
42. *Third*, the ASBK Management (including the Respondent) complied with the notification requirements imposed by Clause 4.4 because the introduction of the Ducati RPM Limit was advised to competitors in a Competitor Bulletin issued on 13 January 2026.



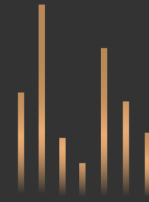
43. *Fourth*, because the introduction of the Ducati RPM Limit was advised (by Competitor Bulletin) to competitors at the same time as the window for submitting entries for the ASBK Championship opened, the Applicant must be taken to have entered the ASBK Championship with the knowledge of the Ducati RPM Limit had been introduced, and therefore elected to enter the competition subject to being bound by that limitation and should not be able to challenge the validity of that regulation.

#### **MERITS AND DETERMINATION**

44. Having carefully considered all of the submissions of the parties and the evidentiary material which has been provided, I am of the opinion that the Respondent's submissions should generally be accepted in preference to the Applicant's submissions.
45. In particular, I do not accept the Applicant's submissions that the imposition of the Ducati RPM Limit involved a change to the rules with respect to which the procedure for changing the rules was not followed, or that there is no evidence that the Ducati RPM Limit relates to performance balancing for the purposes of Clause 4.4 or was required to homologate the motorcycles used in the ASBK competition.
46. Instead, I accept the Respondent's submissions in relation to the regulatory powers of the Respondent and the context in which those powers arise.
47. In this regard, I observe that, pursuant to the regulatory framework which is in place with respect to the governance of Motorcycle Sport in Australia (including the MOMs, GCRs and ASBK Regulations), the Respondent, as the NSO for the sport of motorcycling, has considerable power, authority and discretion to introduce and amend regulations which control and regulate the conduct of competitive motorcycle races in Australia (including the ASBK Championships).
48. I also observe that under the principal regulation at issue in this application, namely Clause 4.4, the Respondent (as part of the ASBK Management team) has a wide discretion to apply balancing to any machines as they see fit in order to maintain equality amongst machines, which expressly includes the power to introduce a Rev (RPM) Limit at any time deemed necessary to ensure fair competition, subject only to an obligation to consult with the RRC.
49. I do not accept the Applicant's submissions that the introduction of the Ducati RPM Limit involved a change in the ASBK Regulations (or the GCR's) such that the procedure for rule changes set out on page 6 of the MOMs/GCRs had to be followed. Instead, I accept the Respondent's submission that the introduction of the Ducati RPM Limit did not involve any rule changes (to the MOMs or the GCRs) but instead involved performance balancing directed to a specific machine and as such was made pursuant to the express power granted to ASBK Management by dint of Clause 4.4 to apply performance balancing to particular machines.



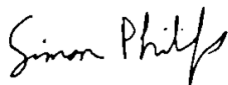
50. I also do not accept the Applicant's submission that in order to exercise its power under Clause 4.4 the Respondent, as the NSO, must follow the principles of procedural fairness. The Applicant did not develop this submission in any detail or identify any basis for concluding that the Respondent had a duty to afford procedural fairness to participants in the ASBK Championships in the context of deciding whether it was necessary for performance balancing measures to be introduced.
51. However, I do accept the Applicant's submission that, in exercising its power under Clause 4.4, the Respondent (and ASBK Management) must ensure that any performance balancing requirements have a rational basis and are not introduced on the basis of suspicion, speculation or whim (or in other words are not exercised capriciously or with no proper or rational basis).
52. In essence, the Respondent submitted that the introduction of the Ducati RPM Limit was a valid and permissible change to the competition regulations which was drawn to the attention of competitors before entries to participate in the competition had been made, and consequently the change in regulations was not one introduced after the competition had been commenced, and therefore was not one which unfairly or unreasonably caused prejudice to the Applicant, because the Applicant could have elected not to enter the competition.
53. In general terms, I accept this submission. However, I note that it must be tempered by the requirement that, in exercising its power under Clause 4.4 to introduce the Ducati RPM Limit, the ASBK Management (including the Respondent) was not permitted to act capriciously or without any rational or reasonable basis.
54. I am satisfied, on the basis of the material provided by the Respondent, that the ASBK Management (including the Respondent) was not acting capriciously or without any rational or reasonable basis in introducing the Ducati RPM Limit. In this regard, I refer in particular to the email dated 9 January 2026 sent by the Respondent (copied to and sent on behalf of the other members of the ASBK Management) to the RRC which provided the RRC with a draft of the proposed ASBK Regulations for 2026 and included detailed commentary in relation to the proposed changes to the regulations (including the specific reference at point 13 to the reasons behind the introduction of the Ducati RPM Limit, which has been set out verbatim in [12] above).
55. The contents of point 13 of the Respondent email dated 9 January 2026 make it plain that considerable thought had been given to the reasons for the recommended introduction of the Ducati RPM Limit, including consideration of submissions and data (including race results, top speeds and championship history) in relation to the respective performance of different motorcycles, sufficient to support the conclusion that the Ducati motorcycles had a speed advantage which warranted the introduction of an adjustment in the form of an RPM limit on the Ducati machines.



56. In these circumstances, I am satisfied that the Respondent and ASBK Management satisfied its obligations pursuant to Clause 4.4 to consult with RRC in relation to the proposed performance balancing measure and also were not acting capriciously or without any rational or reasonable basis in introducing the Ducati RPM Limit.
57. I am also satisfied that by circulating the Competitor Bulletin #1 on 13 January 2026, the Respondent complied with its obligation under Clause 4.4 to document details of any performance balancing by competitor bulletin. In any event, I am not satisfied that any failure by the Respondent not to include these details in the competition section of the ASBK Championship website could have had any effect on the validity of the Ducati RPM Limit. This is because any failure by the Respondent not to comply with its obligation to inform competitors of performance balancing measures on its website (in addition to by competitor bulletin) could not, in my opinion, have any effect on the validity of such performance balancing measures.
58. For these reasons, I am satisfied that the addition of the Ducati RPM Limit into the 2026 ASBK Regulations was a matter which was within the regulatory power of the Respondent and was not invalid, and there is no basis for it to be revoked. I therefore do not consider that there is any basis to uphold the Applicant's challenge to the validity of the Ducati RPM Limit.

## THE TRIBUNAL THEREFORE DETERMINES

1. *The Application should be dismissed.*



Simon Philips

Date: 26 March 2026