27 October 2021

Mr Bruce Billson
Australian Small Business & Family
Enterprise Ombudsman
GPO Box 1791
Canberra ACT 2601

By email: inquiries@asbfeo.gov.au

Dear Mr Billson

Following release of 'The Show Must Go On' Report (the Report) into insurance market conditions impacting on the Australian amusement and leisure industry (the industry), and in accordance with your invitation extended to interested parties, Sportscover Australia Pty Ltd (SCA) wishes to provide this submission for your consideration prior to your final report being released to government.

SCA understands that a prime catalyst for the review of insurance market conditions impacting on the industry stemmed from the Australian Amusement, Leisure, and Recreation Association's (AALARA's) proposal to establish a Discretionary Mutual Fund (DMF) as a "potential solution to the critical and immediate need for insurance in the sector represented by AALARA" (the Report at 1.1.2). It is this proposal that SCA wishes to address herein.

Sportscover Australia
Sportscover Australia Pty Ltd is an Australian private company established in 1986 and which operates exclusively as an underwriter in the sport, fitness and leisure industry. As an underwriter, SCA places industry risks into the Lloyd's market via established syndicate partners.

As at the date of this correspondence, SCA transacts with 4,697 individual insurance brokers operating at brokerages throughout Australia ranging in size and sophistication from major multinational entities to community-based practices. Over the course of the Company's 35-year history, Sportscover has provided the sport, fitness and leisure industry with insurance products covering casualty, personal accident & injury, contingency, cyber, travel and property via our broker partners.

Sportscover is actively involved in the Australian leisure sector under our brand **'Active Underwriting Specialists'**. Our current risk appetite enables us to consider and insure a substantial part of the sector across Adventure Sports, Visitor Attractions, Amusements and Events, including:

Water Parks	Zoos & Safari Parks	Arcades
Bingo Centres	Children's Play Centres	Family Fun Centres

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Mini Golf Courses	Multi-Entertainment Venues	Museums
Theatres	Theme Parks	Aquaria
Cinemas	Concert Halls	Exhibition Halls & Venues
Historical Attractions	Abseiling Operators	Activity Centres
Low/High Ropes Courses	Laser Skirmish	Canoe/Kayak Tours
Paintball Operators	Treetop Walkways	White Water Rafting
Climbing Centres	Jetboat Operators	Performers & Theatrical Productions
Concerts	Fetes & Festivals	
Exhibition & Trade Shows	Market Operators	

Under the 'Active' brand, SCA currently has 3,513 policies in force across the above range of leisure operators. Of this volume, 1,458 policies have been placed with us for two years or more, with 100 having been placed with us for ten years or longer.

Comments pertaining to the Report

SCA submits that this record of insurance provision qualifies Sportscover to comment on various statements contained in the Report and the subsequent recommendations stemming from it, particularly those pertaining to the establishment of a DMF.

The Report has been compiled on the premise that Australia is in the grip of a hard insurance market. Whilst this is not disputed, it should be noted that such a market has not resulted in insurance being impossible to obtain. SCA's extensive client base is evidence of this.

At 1.1.8 of the Report, it is claimed that "very few insurance companies were at the time willing to insure the industry and premiums were rising dramatically, sometimes by up to 150%". As an alternative perspective on the availability and affordability of insurance within the industry, the average premium increase faced by SCA's 1,458 long-term policy holders (ie policies held for two years plus) has been 2.34% per annum. For the majority of our clients, this is less than CPI over the life of their respective policies. For the remaining 2,055 policies that have been with SCA for two years or less, the average premium increase has been only 0.24%.

Unfortunately, the Report does not give sufficient attention to the fact that an insured's 'risk profile' plays a significant part in determining whether the insured is, in fact, able to be offered terms. Herein, lies the first of two main dilemmas facing the amusement and leisure industry, and the amusement sector in particular.

The reality within global insurance is that insurance is always available, at a price. Over the past few years, it has become increasingly apparent that some risks have been substantially underpriced. The effect of a hard market is that premiums are invariably re-set to the level they should have been over several previous years. The inevitable market reaction is that insureds simply don't welcome these price realignments. SCA contends that this is not an indicator of "market failure" but of 'market correction' and that a DMF will face these same issues with regards to pricing.

In the Report (1.1.8), it is stated that AALARA had advised that it had "conducted a survey in March 2020, gathering responses from 40 AALARA members, and found that the 40 Members collectively owned 297 pieces of plant and had made a total of 3 claims. Only 40.5% of Members had been offered renewal terms". Without visibility as to the business nature of the 40 responding members, it is unclear as to whether each member poses an acceptable insurance risk or not, claims history being but one indicator of insurability. By comparison, SCA can attest that there are at least 3,513 entities operating in the amusement and leisure industry with more than acceptable risk profiles.

As another perspective on the cost of insurance, it should be noted that all sectors in society, including residential (ie households), have experienced insurance premium increases in recent years, irrespective of individual claims history. This is the result of impacts felt from across the globe with the Australian market feeling the impact of catastrophes not just in Australia but in other territories worldwide.

The Report suggests that the creation of a DMF will enable operators within the amusement and leisure industry to smooth these impacts and obtain insurance (noting that DMF is not actually insurance), when they are not currently able to. One of the factors critical to the success of any insurance program is the quality of the underwriting criteria in place to assess and price each risk. The quality of SCA's underwriting platform is one of the main reasons why so many clients are currently insured with us and have been for multiple years.

At 6.3.1, the Report states that, by enforcing safety and operational standards, a DMF will be able to exclude industry members with higher risk profiles. It is this embracement of the nature of 'risk' that would inevitably result in amusement and leisure operators not being accepted into the Fund, thereby being no better off than they are now – the second major dilemma.

The main reason SCA avoids insuring some amusement and leisure risks is that their respective risk profiles are too high to warrant support. SCA contends that increased enforcement of safety and operating standards across these sections of the industry would create a more conducive path to insurance certainty than may currently be the case.

Comments pertaining to the creation and operation of a DMF
As the Report indicates, for a DMF to operate effectively and sustainably, reinsurance will be required to provide short and long-term security for the DMF program and the members participating in it.

One of the Report's stated aims of establishing a DMF is to avoid the cycles and volatility of the insurance market. SCA contends that this will not be achieved as the reinsurance market is far more volatile than the insurance market - with far fewer reinsurance operators, the reinsurance market moves more quickly and more frequently, with the impacts particularly felt in smaller markets. The Australian amusement and leisure industry would suffer the consequence of being a 'small market' in the global context.

The Report provides case examples of successful DMF's, most notably those operating in far larger economies than Australia's. Nevertheless, there are counterbalancing examples of DMFs failing, even in large economic environments. For example, a number of multi-sector DMF's have failed in the past ten-twenty years including a highly touted UK sports industry Fund operated by Perkins Slade. The simple facts are that DMF's are not insurance platforms; there is no requirement to meet claim obligations, especially if the Funds have exhausted their capital base; they are not subject to the same regulatory strictures that provide insurance confidence; and members are generally disinclined to provide top-up capital to maintain an under-performing Fund.

It should be noted that, in April 2021, SCA wrote to AALARA to advise the Association that we were interested in entering the Large Theme Park Market and to request assistance to enable our Underwriting Department to fully understand standard operating and risk management practices (ie to ensure SCA would be able to set appropriate underwriting criteria). With no immediate response, SCA contacted the Association by telephone to be advised that assistance could not be provided. Given the purported “insurance issues” being experienced by its members, this was an unusual response from AALARA. We suspect that our approach coincided with AALARA having been made aware of the revenue potential of a DMF. A sensible approach would have been to pursue both avenues on behalf of its members before determining a preferred course.

In conclusion, SCA contends that governments will need to accept a level of risk if they intend to endeavor to address and re-direct insurance market forces. This may not be a palatable undertaking. Whereas the terrorism and cyclone reinsurance programs have operated to meet the need of a market unable to be covered through alternate means, this is not the case with the amusement and leisure industry in which numerous underwriters operate and provide support.

The reality is, whether in a hard or soft market, poor risks are poor risks. Increased focus on and policing of safety and operating standards offers a more realistic, affordable and sustainable path forward for operators within the amusement and leisure industry.

Sportscover would be pleased to be afforded the opportunity to discuss this submission with you and/or your representatives at your convenience.

Sincerely

[redacted]

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