



FEDERATION INTERNATIONALE DE L'AUTOMOBILE

**APPLICATION FOR DESIGNATION AS A "SUPER-COMPLAINANT" UNDER
THE ENTERPRISE ACT 2002**



FEDERATION INTERNATIONALE DE L'AUTOMOBILE

27 April 2009

Application for designation as a "super-complainant" under the Enterprise Act 2002

The Fédération Internationale de l'Automobile ("FIA") makes this application pursuant to section 11(6)(a) of the Enterprise Act 2002 to obtain designated status as a super-complainant empowered to bring super-complaints to the Office of Fair Trading ("OFT") where there are features of a market for goods or services in the United Kingdom which may be significantly harming the interests of consumers.

The FIA is an independent, not-for-profit organisation dedicated to representing the interests of motoring organisations, motorists, road users, and motoring tourists throughout the world. It is also the governing body of motor sports worldwide. Since its foundation in 1904, the FIA has actively promoted and defended the interests of motorists and road users on a wide range of issues, such as safety, mobility, the environment, and consumer law. With considerable expertise in the motoring sector, a wide network of member organisations, experience with competition law matters, a proven track record of undertaking complex and detailed investigations, and significant resources, the FIA considers that it would be well placed to bring super-complaints to the OFT on a range of issues where it is aware that the interests of consumers are being harmed.

The remainder of this application, together with the accompanying annexes, demonstrates that the FIA satisfies each of the five criteria for designation as a super-complainant published by the Secretary of State for Business Enterprise and Regulatory Reform.¹ The FIA formally undertakes to notify the Secretary of State of any material changes to the information supplied in this application that could be relevant to meeting any of the criteria for super-complainant status – the formal undertaking is contained in Annex 1 to this application.

At the same time as making this application, the FIA is also submitting an application pursuant to section 47B(10) of the Competition Act 1998 to obtain designated status as a specified body empowered to bring claims for damages on behalf of consumers before the Competition Appeal Tribunal. While there is overlap as between the criteria for both applications, each application has been prepared on a standalone basis.

¹ In preparing this application, the FIA has followed the Guidance For Bodies Seeking Designation as Super-Complainants found at <http://www.berr.gov.uk/files/file32780.pdf>.

Criterion 1 – The body is so constituted, managed and controlled as to be expected to act independently, impartially and with complete integrity

a. Introduction and legal status

The FIA is an independent, not-for-profit organisation established under French law in 1904 whose principal aim is to represent the interests of motoring organisations and motorists throughout the world. It is also the governing body of motorsports worldwide. Headquartered in Paris and with offices in Geneva, London, and Monte Carlo, the FIA is an association of 222 national organisations (automobile clubs and associations, touring clubs, and federations for motoring and motorsports) from 130 countries on five continents. Through its member organisations, the FIA represents over 100 million motorists and their families worldwide, of which approximately 16 million are located in the United Kingdom. The FIA's member organisations in the United Kingdom include the Automobile Association Ltd., the Camping and Caravanning Club, the Caravan Club, Eurorap, the Institute of Advanced Motorists Limited, the Motorsports Association, RAC Motoring Services, and the Royal Automobile Club.

b. Governance

The FIA's supreme body is the General Assembly, which comprises the presidents of the national organisations (clubs, associations, and federations) that are members of the FIA ("Member Clubs").² As well as approving the FIA's annual accounts and budget, the General Assembly elects by an absolute majority for a term of four years the members of the two bodies that govern the FIA.³ The two governing bodies are: (1) the World Council for Automobile Mobility and Tourism (the "WCAMT"), governing all non-sporting activities, such as road safety, environment, and consumer protection; and (2) the World Motor Sports Council (the "WMSC"), governing all international motor sport, including the FIA Formula One World Championship. The two World Councils together form the FIA Committee, although only a single World Council sits as the FIA Committee where the issue under discussion is either purely sporting or non-sporting.⁴ Accordingly, it is the WCAMT that is mainly relevant for purposes of this application. A chart showing the structure of the FIA is contained at Annex 2 to this application.

The WCAMT comprises 26 Members, which include representatives of the four Automobile Mobility and Tourism Regions.⁵ The WCAMT is chaired by the Deputy

² Pursuant to Article 8 of the FIA Statutes, a copy of which is attached at Annex 3 to this application, the Ordinary General Assembly is held annually typically at the FIA's headquarters. General Assemblies may also be convened at other times during the year, for example at the justified request of the FIA members.

³ Pursuant to Article 11 of the FIA Statutes, the quorum is set at one third of the FIA member countries entitled to vote. In the event of a hung vote, the President of the FIA has the casting vote.

⁴ In other words, the WCAMT will sit as the FIA Committee where the issues relate purely to non-sporting matters, while the WMSC will sit as the FIA Committee where the issues relate purely to sporting matters.

⁵ Article 13, the FIA Statutes. The Regions are (i) Europe; (ii) Asia and Pacific; (iii) North America; and (iv) South America.

President for Automobile Mobility and Tourism, currently Franco Lucchesi.⁶ The remaining members of the WCAMT are the President of the FIA, seven Vice Presidents of the FIA for Automobile Mobility and Tourism, and 17 additional members.⁷ The decisions of the WCAMT are carried by an absolute majority.⁸

The functions of the WCAMT include: (1) reviewing developments in the area of automobile mobility and tourism that concern Member Clubs and their members; (2) proposing recommendations on issues and priorities for action; (3) managing the funds provided to automobile and tourism activities; (4) taking decisions required by the direction of the FIA in the automobile mobility and tourism domains; (5) establishing permanent or *ad hoc* commissions or working groups to assist the work of the WCAMT;⁹ and (6) presenting an annual progress report to the General Assembly.

Pursuant to Article 17 of the FIA Statutes, the FIA also has a Senate that can take decisions on behalf of the World Councils, particularly in emergency circumstances. Any such decisions must be confirmed during the next Committee or relevant World Council meeting. The Senate consists of the President of the Senate, the previous FIA President, the current FIA President, the Deputy President for Automobile Mobility and Tourism, the Deputy President for Sport, and five further members elected by the General Assembly.

The FIA's administrative business is handled by the administrative secretariat under the joint responsibility of the Secretary General for Automobile Mobility and Tourism and the Secretary General for Motor Sport.¹⁰ The Secretary Generals are appointed by the FIA President in agreement with the relevant World Council. The Secretary General for Automobile Mobility and Tourism participates in the FIA's general policies and is responsible for all administrative tasks in the automobile mobility and tourism activities.

Further details on the FIA's governance can be found in the FIA Statutes provided at [Annex 3](#) to this application.

⁶ Pursuant to Article 19 of the FIA Statutes, the President of the FIA chooses which Council to chair at the start of his or her presidency. The current President has chosen to chair the WMSC.

⁷ The 17 additional members are nominated by the four Automobile Mobility and Tourism Regions: (i) Europe (11 members); (ii) Asia and Pacific (6 members); (iii) North America (4 members); and South America (3 members).

⁸ In the event of a hung vote, the FIA President (or, in his absence, the Deputy President) has the casting vote.

⁹ The commissions act in much the same way as ministries to a national government.

¹⁰ Article 24, the FIA Statutes.

c. **Aims and objectives**

Pursuant to Article 2 of the FIA Statutes, the object of the FIA is defined as the establishment of a union between its members with a view, *inter alia*, to:

1. **Maintaining a world-wide organisation upholding the interests of its membership in all international matters concerning automobile mobility and tourism and motor sport.**
2. **Promoting freedom of mobility through affordable, safe, and clean motoring, and defending the rights of consumers when travelling by automobile.**
3. Promoting the development of motor sport, enacting, interpreting and enforcing common rules applicable to the organization and running of motor sport events.
4. **Promoting the development of the facilities and services of the Member Clubs, Associations and Federations of the FIA, and the co-ordination of reciprocal services between Member Clubs for the benefit of their individual members when travelling abroad.**
5. Exercising jurisdiction in respect of disputes of a sporting order and any disputes which might arise between its Members, or in relation to any of its Members having contravened the obligations laid down by the Statutes, the International Sporting Code and the Regulations.
6. Preserving and conserving all documents concerning world motoring in order to trace its History.

The consumer-oriented aims most relevant to this application have been highlighted in bold text above. In addition to the FIA's general object set out in Article 2 of the FIA Statutes, the main goals and concerns of the WCAMT are detailed on the FIA's website as follows: (1) road safety and car construction standards; (2) environmental protection; (3) mobility and touring; (4) consumer protection and information; (5) traffic issues; and (6) customs regulations and documents.¹¹

As discussed in more detail under Criterion 2 below, the FIA is accustomed to working on industry-wide initiatives and to acting in an independent and impartial manner on matters concerning motorists and road users, particularly with respect to safety, mobility, the environment, and consumer law. Indeed, the FIA's contributions in these areas have been recognised, *inter alia*, by the Council of Europe and the United Nations, both of which have granted the FIA consultative status.

¹¹ <http://www.fia.com/thefia/Organisation/Files/touring.html>.

d. Curriculum vitae of principal officers

Annex 4 contains curriculum vitae of the FIA President, the President of the Senate, the Deputy President for Automobile Mobility and Tourism, and the Deputy President for World Motor Sports. None of these individuals currently hold any directorships or significant shareholdings (over 10%) in any companies with activities in the United Kingdom other than, if any, those disclosed in the curriculum vitae at Annex 4.

A full list of current members of the WCAMT is attached at Annex 5.

e. Accounts

FIA accounts for the last two years are attached at Annex 6.

f. Shareholdings

As a not-for-profit association of its Member Clubs, the FIA does not have shareholders. Details of each of the FIA's Member Clubs can be found on the FIA's website at www.fia.com/thefia/Membership/index_members.html.

g. FIA funding

Pursuant to Article 25 of the FIA Statutes, the resources of the FIA are derived from:

1. The annual subscriptions paid by its Member Clubs.
2. Income and interest from any personal estate or real estate that the FIA owns.
3. Any fees and taxes that the Committee and the General Assembly decide to collect;
4. Income arising directly or indirectly from sporting activities, including the FIA Championships; and
5. Income arising directly or indirectly from automobile mobility and tourism activities.

As explained later, the monies derived from these sources are used solely to further the FIA's stated objects.

h. Conclusion on independence, impartiality, and integrity

The FIA submits that the above summary demonstrates that it is constituted, managed, and controlled so as to be expected to act independently, impartially, and with complete integrity.

Criterion 2 – The body is able to demonstrate considerable experience and competence in representing the interests of consumers of any description

a. Introduction

The FIA has an extensive history of involvement in campaigns and initiatives from which motoring consumers and road users across the United Kingdom and the rest of Europe benefit.¹² As mentioned under Criterion 1 above, the FIA has been granted consultative status by the Council of Europe and the United Nations for its contributions in this regard. The FIA also enjoys strong working relationships with such diverse bodies as the European Commission, the Organisation for Economic Co-operation and Development, the World Health Organisation, the World Tourism Organisation, and the United Nations Environment Programme. In all these different forums, the FIA pro-actively represents the interests of motorists, road users, and motoring tourists.

The FIA's commitment to consumer issues is also reflected in the establishment in 2001 of the FIA Foundation, an independent UK registered charity which manages and supports an international programme of activities aimed at promoting public safety and public health, the protection and preservation of human life, and the conservation, protection, and improvement of the physical and natural environment. The Foundation seeks to achieve these aims by:

- Promoting research, disseminating the results of research, and providing information in any matters of public interest that include road safety, automobile technology, the protection and preservation of human life and public health, transport and public mobility, and the protection of the environment;
- Promoting improvement in the safety of motor sport, and of drivers, passengers, pedestrians, and other road users; and
- Conducting its own research and educational activities, as well as offering financial support to third party projects through a grants programme.¹³

The remainder of this part of the application describes some of the important consumer initiatives and campaigns in which the FIA and the FIA Foundation have been involved. This list is intended to be indicative rather than exhaustive.

¹² The FIA notes that the Secretary of State does not require super-complainant applicants to represent all consumers, but that it is sufficient if the super-complainant applicant represents consumers of specific products or services (subject to the ability to bring super-complaints on a range of issues). See paragraph 1.6 of the Guidance For Bodies Seeking Designation as Super-Complainants.

¹³ The FIA Foundation is funded by means of the US\$300 million dollar donation made to it by the FIA in 2001. This donation was made from monies paid to the FIA in consideration for a 100-year loan of the rights to commercialise the FIA Formula One World Championship. Further details on the FIA Foundation can be found on its website at <http://www.fiafoundation.com>.

b. Europe in Motion

"Europe in Motion" is the policy programme of the FIA and the Alliance Internationale de Tourisme (the "AIT"), which act as a "consumer watchdog for millions of motorists and their families."¹⁴ Europe in Motion's policy agenda includes:

1. Campaigning for a reduction in road accidents through the introduction of realistic and achievable pedestrian-friendly impact standards, audits of safety design and condition of roads, coordination of an EU-wide seat belt awareness campaign, and sustained increases in road safety budgets;
2. Accelerating the introduction of cars that meet the toughest fuel and emissions standards through investment in EU-wide voluntary scrappage schemes for non-catalyst cars, providing generous fiscal incentives for the newest, cleanest cars, and providing consumers with clear advice on which cars are most fuel efficient;
3. Promoting a fair deal for European motorists with respect to taxes;
4. Championing the consumer through securing principles of openness and interoperability for in-car telematics products, ensuring open access to all on-board diagnostic systems concerning the environment, safety, and security, and ensuring motorists' access to justice and insurance representation for accidents abroad; and
5. Promoting tourism through establishing consumer rights as a key objective of European tourism policy, maintaining pressure on ferry companies to improve Roll On Roll Off safety, supporting EuroVelo project to develop Europe-wide cycle routes, and promoting awareness of sustainable tourism and developing new ways of supporting tourists with intelligent transport systems.

c. Euro NCAP

In 1995, at a time of resistance from car manufacturers for a European new car assessment programme ("NCAP"), the United Kingdom's Transport Research Laboratory, with the support of the UK Government, started to develop an NCAP in the United Kingdom. In 1996, the FIA, the Swedish National Road Administration, and International Testing, joined the UK NCAP to form Euro NCAP.¹⁵ Particularly in light of the promotional efforts of the FIA, Euro NCAP is now backed by seven European governments, the European Commission, and motoring and consumer organisations throughout the EU Member States.

¹⁴ See generally "Europe in Motion" on the FIA website at <http://www.fia.com/mobility/Policy/index.html>.

¹⁵ See generally www.euroncap.com.

Through undertaking crash tests (including front, side, and pole impacts, and impacts with pedestrians) and providing a star rating system, Euro NCAP provides motoring consumers with an independent assessment of the safety performance of some of the most widely sold cars in Europe. Indeed, Euro NCAP has rapidly become a catalyst for encouraging significant safety improvements to new car design and has in effect created a "Market for Safety" in new cars.¹⁶ Motorists and road users in the United Kingdom have benefited significantly from the safety improvements that have been brought about in new car design as a result of the launch of the Euro NCAP.

d. EuroRAP

The FIA Foundation is one of four financial supporters of EuroRAP, Europe's Road Assessment Programme, a sister programme to Euro NCAP. EuroRAP is a not-for-profit association that monitors the safety of public roads in 23 European countries and advocates improvements in the construction of roads and their safety features.¹⁷ The objectives of EuroRAP are: (1) to reduce death and serious injury on European roads rapidly through a programme of systematic testing of risk that identifies major safety shortcomings which can be addressed by practical road improvement measures; (2) to ensure assessment of risk lies at the heart of strategic decisions on route improvements, crash protection and standards of route management; and (3) to forge partnerships between those responsible for a safe roads system – motoring organisations, vehicle manufacturers, and road authorities.

Motorists and road users throughout the United Kingdom are able to access statistics and star-ratings on the safety of main routes across Europe through the EuroRAP website. Motorists benefit in the short term through being able to identify low and high risk roads, and in the long term through pressure exerted on EU governments (including the United Kingdom governments) to improve road safety.

e. Make Cars Green

On 26 October 2007, the FIA published a General Assembly Declaration on air quality, climate change, and automotive fuel economy entitled "Make Cars Green."¹⁸ The Declaration sets out the FIA's recommendations on these environmental issues, together with the four main action points.¹⁹ First, the FIA will continue its long-standing support for the global effort to reduce toxic emissions, to combat dangerous climate change, and to promote automotive fuel economy and responsible motoring. Second, the FIA will promote an awareness campaign, "Make Cars Green," among the Member Clubs and

¹⁶ See the Euro NCAP "Market for Safety" brochure at: <http://www.euroncap.com/cache/file/d60cf82c-9ca7-4b56-a06b-f46effaf78d/Brochure-10th-Anniversary.pdf>.

¹⁷ See generally www.eurorap.org.

¹⁸ <http://www.makecarsgreen.com/documents/MCG-declaration.pdf>.

¹⁹ The FIA General Assembly will review progress in 2010.

global membership of the FIA. Third, the FIA will promote the Declaration's recommendations²⁰ to, for example, the United Nations Framework Convention on Climate Change, the G8, and the United Nations World Forum for Harmonization of Vehicle Regulations (UNECE WP29). Fourth, the FIA will encourage participation by the FIA Regions and Member Clubs in consumer information campaigns to encourage the purchase of cleaner and more fuel-efficient vehicles and components through initiatives such as the ECOTEST programme of the FIA Foundation and Allgemeiner Deutscher Automobil-Club, Germany's largest automobile club.²¹

f. 50by50: Promoting Global Fuel Efficiency

Together with the International Energy Agency, the International Transport Forum, and the United Nations Environment Programme, the FIA is preparing to launch the Global Fuel Economy Initiative with the aim of improving the understanding of the fuel economy potential and cost of cars built and sold around the world, and of providing guidance and support on the development of policies to promote fuel efficient vehicles. Its activities will include: (a) development of improved data and analysis on fuel economy around the world; (b) work with governments to develop policies to encourage fuel economy improvement for vehicles produced or sold in their countries and to improve the consistency and alignment in policies across regions in order to lower the cost and maximise the benefits of improving vehicle fuel economy; (c) work with stakeholders, including car manufacturers, to better understand the potential for fuel economy improvement; and (d) support regional awareness initiatives to provide consumers and decision makers with the information they need to make informed choices.²²

g. Make Roads Safe campaign

The FIA Foundation provides global funding for the Make Roads Safe campaign.²³ Make Roads Safe, which has been endorsed by over 100 organisations worldwide, including FIA Member Clubs, the United Nations Environment Programme, and the World Health Organisation, is an international campaign to put global road traffic injuries on the G8 and United Nations sustainability agendas. The Make Roads Safe campaign aims to raise public and political awareness of the global road traffic accident epidemic,

²⁰ The Declaration's recommendations include, for example: (a) early action to reduce CO2 emissions through cost-effective measures shared by all energy users and emission sources; (b) environmental improvements through the promotion of new vehicle, fuel, and component technologies, improved road network design, and management, and incentives and information to promote greener automotive technologies, driving, and mobility choices by the consumer; (c) continued industry investment in environmentally friendly technologies; and (d) harmonised standards for automotive emission control, fuel quality, and fuel economy.

²¹ ECOTEST is a star rating for vehicles with respect to their environmental impact.

²² See <http://www.fiafoundation.org/news/archive/related/Documents/Poznan/50by50-leaflet.pdf>.

²³ See generally www.makeroadssafe.org.

especially in developing countries, which kills at least 3,000 people, and 500 children, every day. In December 2008, the Make Roads Safe campaign was endorsed by former US president Bill Clinton. The FIA actively supports the work of the Make Roads Safe campaign.²⁴

h. CARS 21

The FIA is part of Competitive Automotive Regulatory System for the 21st Century ("CARS 21") launched by the European Commission in January 2005.²⁵ The objective of CARS 21, which brings together key stakeholders in the automotive sector, is to make recommendations for the short, medium, and long term public policy and regulatory framework for the European automotive industry to enhance global competitiveness and employment, while sustaining further progress in safety and environmental performance at a price affordable to the consumer.

i. Conclusion on representing consumer interests

The FIA believes that its involvement in the various initiatives and campaigns detailed above demonstrates that it represents and/or protects the interests of consumers.

Criterion 3 – The body has the capability to put together reasoned super-complaints on a range of issues

a. Introduction

The FIA has considerable experience in competition law matters and a proven track record of undertaking complex and detailed investigations. In bringing a claim on behalf of consumers, the FIA could also bring to bear its expertise in the motoring sector, its considerable resources (including its in-house legal team and sizeable communications department), and its wide network of member organisations.

Assuming that the FIA obtains designated status as a super-complainant, it would adopt an internal procedure to assess in what circumstances it would bring super-complaints on behalf of consumers. The World Councils would ultimately be responsible for any decisions involving the likelihood of success and cost assessment.

b. Legal department

The FIA has a well-resourced in-house legal department that would be capable of preparing and bringing super-complaints to the OFT. In addition to its in-house legal capability, the FIA regularly has recourse to a panel of external advisers based in London, Brussels, Paris, and the United States.

²⁴ See, e.g., the FIA Declaration on Global Road Safety made on 20 October 2006: http://www.fia.com/resources/documents/816588403_FIA_Make_Roads_Safe_declaration.pdf.

²⁵ See http://www.fia.com/resources/documents/262959556_Cars21_report.pdf.

c. Competition law experience and undertaking detailed investigations

The FIA's in-house legal team deals with competition law matters on a regular basis and has experience in managing competition/antitrust cases before courts and competition authorities in the EU, France, and the United States.

First, as sporting regulator, the FIA regularly applies and takes account of competition law in the conduct of its own activities. It made a voluntary notification of its statutes and sporting regulatory documents to the European Commission, resulting in a number of changes being made and the Commission issuing a "comfort letter" in 2001 declaring its view that the provisions set out therein complied with competition law.

The FIA has used its legal and public policy resources to encourage DG Competition and the authorities in various Member States to investigate possible anti-competitive practices with respect to petrol prices.²⁶ This call has been taken up.

The FIA participated in DG Competition's Sector Inquiry into the provision of sports content over third generation mobile networks.

As regulator of an extremely complex sport, the FIA is regularly called upon to conduct very detailed, complex and time consuming investigations. The FIA demonstrated its ability to conduct wide-ranging investigations of the type that may be necessary in the context of any action or complaint before the OFT in its 2007 investigation into an allegation that the Vodafone McLaren Mercedes Formula One team had improperly received and used technical secrets belonging to the Ferrari Formula One team. A detailed investigation occurred, including the implementation of an immunity programme not dissimilar to the immunity programmes operated by the OFT and European Commission in competition cases. A fine of US\$100 million was imposed by the FIA after a lengthy legal process and the FIA ordered a detailed inspection of the car in preparation for the 2008 season. In the space of six weeks, the FIA team conducted a detailed and thorough investigation of the McLaren 2008 car, which included sifting through some 1.4 million terabytes of data. McLaren itself described this investigation as "most impressively thorough and daunting."²⁷ The FIA would anticipate bringing the same rigour and dedication to any claims it might seek to present on behalf of consumers before the OFT.

d. Examples of previous papers and research

In addition to its experience in competition law matters and in undertaking detailed investigations, the FIA has been involved in preparing or sponsoring numerous papers and research documents as part of its work in campaigning for motoring consumers and

²⁶ See http://business.timesonline.co.uk/tol/business/industry_sectors/natural_resources/article5848069.ece.

²⁷ See McLaren letter of 5 December 2007 to Members of the FIA's World Motor Sport Council at: <http://www.mclaren.com/latestnews/pdf/Max-Mosley-and-WMSC-members.pdf>.

road users across the United Kingdom and the rest of Europe. Annex 7 contains the following examples of such papers:

- Formula for the Environment (Make Cars Green);²⁸
- FIA Declaration on Air Quality, Climate Change, and Automotive Fuel Economy (Make Cars Green);²⁹
- Fuelling the Debate: A Fair, Efficient, and Environmental Fuel Tax Policy;³⁰
- Formula Zero: A Strategy for Reducing Fatalities and Injuries on Track and Road (FIA policy statement);³¹ and
- Europe In Motion: Sustainable Mobility in the New Millennium.³²

These papers further demonstrate the FIA's ability to put together reasoned super-complaints to the OFT across a range of issues.

e. Communications department

The FIA has a significant communications department which has vast experience in launching and managing European and global consumer-oriented campaigns. The FIA would envisage bringing its campaign and communications expertise to the fore in bringing super-complaints to the OFT.

f. Conclusion on capability to bring claim

Given its motoring sector expertise, a wide network of member organisations, experience with competition law matters, a proven track record of undertaking complex and detailed investigations, wide-ranging experience in preparing papers and research documents, and considerable resources (including its communications department), the FIA considers that it would have the capability to bring super-complaints to the OFT on behalf of consumers.

²⁸ Also at http://www.fia.com/en-GB/mobility/policy/Documents/MCG_Brochure1.pdf.

²⁹ Also at <http://www.fia.com/en-GB/mobility/policy/Documents/declaration.pdf>.

³⁰ Also at http://www.fia.com/en-GB/mobility/policy/Documents/Fuelling_the_debate.pdf.

³¹ Also at http://www.fia.com/en-GB/mobility/policy/Documents/Formula_Zero_5_June_2000.pdf.

³² Also at <http://www.fia.com/en-GB/mobility/policy/Pages/FIAPolicyCentre.aspx>.

Criterion 4 – The body is ready and willing to co-operate with the OFT, and/or with any other authority, body or person having responsibility for responding to super-complaints. In particular, the body agrees to take account of any guidance issued by the OFT on the making of super-complaints

a. Co-operation with the OFT

The FIA is ready and willing to cooperate with the OFT and other regulators designated by order under section 205 of the Enterprise Act 2002. The FIA would also take into account any guidance issued by the OFT on how to put together reasoned super-complaints.

b. Conclusion on FIA's willingness to co-operate with the OFT

The FIA is committed to cooperating with the designated UK regulators when bringing super-complaints.

Criterion 5 – The fact that a body has a trading arm will not disqualify it from being designated provided that the trading arm does not control the body, any profits of the trading arm are only used to further the stated objectives of the body; and the body has established procedures to ensure that any potential conflicts of interest are properly dealt with

a. FIA not controlled by a trading arm

An overview of the sources of the FIA's revenues is set out under Criterion 1 above. More detailed information on the nature and source of the FIA's revenues is provided in the FIA accounts attached at Annex 6.

As set out in Article 1 of the FIA's Statutes, the FIA is a not-for-profit association. The FIA does not have any separate trading arm, nor is it controlled by any separate trading arm. Where the FIA does engage in commercial activities, such as the granting of commercialisation rights with respect to international motorsport championships, revenues from these activities are used solely to further the FIA's stated objects.

In relation to each of its most valuable sports properties, including the FIA Formula One World Championship, the FIA World Rally Championship, the FIA World Touring Car Championship, and the FIA GT Championship, the FIA has entered into arrangements for its commercial rights to be licensed to and exploited by third party promoters. It is these promoters that enter into media rights contracts. The FIA focusses its resources on regulation (*i.e.*, of ensuring that these Championships are conducted in a manner that is safe, fair, and orderly), rather than commercial exploitation.

Where the FIA receives payments from its promoters or licencees, the monies in question are put to specific uses that serve the FIA's overall objects. The establishment of the charitable FIA Foundation in 2001 on receipt of monies paid in consideration for a 100-year lease of the rights to commercialise the FIA Formula One World Championship provides a good example of the use to which the FIA puts monies it receives from its

activities. Another example is the FIA's recent approval of the establishment of the Pirelli "Star Driver" scheme³³ with monies received from the Italian tyre manufacturer Pirelli in relation to its appointment as the sole supplier of tyres to the FIA World Rally Championship. The scheme will support and encourage young drivers competing at lower levels of rallying.

The FIA will ensure that it has procedures in place so that it does not bring any super-complaint that would give rise to a conflict of interest with its commercial activities. The FIA further provides an assurance to the Secretary of State that it will not bring any super-complaint with respect to markets in which the FIA may have any direct commercial interest.

b. Conclusion on commercial activities

In light of the above and the information on the FIA's constitution provided in response to Criterion 1, the FIA believes that it has demonstrated that it does not have a separate trading arm that controls the FIA, that any profits from its commercial activities are used only to further its stated objectives, and that it will be careful to ensure no conflict of interest arises with respect to any super-complaint.³⁴

Overall Conclusion

The FIA trusts that the information provided in this application is sufficient to enable the Secretary of State for Business Enterprise and Regulatory Reform to determine that the FIA satisfies the criteria for designation as a super-complainant under section 11(6)(a) of the Enterprise Act 2002. The FIA nevertheless stands ready to respond to any questions that the Department of Business Enterprise and Regulatory Reform might have with respect to this application.

The FIA may be contacted through:

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³³ See http://www.fia.com/mediacentre/Press_Releases/FIA_Sport/2008/April/100408-01.html.

³⁴ Pursuant to Article 17 of the FIA Statutes, the Senate already convenes, as required, a Commercial Promotions sub-Committee for the purposes, *inter alia*, of examining any commercial and promotional proposals for FIA championships and ensuring that they avoid commercial conflicts of interest.