

AUGUST 2011

INCORPORATING LEGISLATIVE CHANGES INTO INDUSTRY GOVERNANCE



BACKGROUND

Amendments and additions to national legislation, regulating safety and risk management considerations relevant to sporting and recreational events, has resulted in governing bodies and sporting federations assuming responsibility for the conduct of event organisers, operating within their respective sectors. The act in question, the Safety at Sports and Recreational Events Act (SASREA), requires that all national controlling bodies, federations and/or regulating bodies, take reasonable measures to ensure the application, facilitation and management of the afore-mentioned act, into the daily operations of the sport or discipline in question.

The SASREA was promulgated in August of 2010 and is subsequently prescriptive legislation. To date certain dispensations have been granted and the enforcement of the act, and its requirements, have received little focus, as the South African Police Services (SAPS) develop internal capacity, allowing them to enforce the acts requirements. The SAPS are mandated with enforcing the act on a national level and will work in conjunction with respective local, municipal, regional and provincial authorities to facilitate compliance audits. Several of these have already occurred throughout the country and focus in this regard is expected to significantly increase as the SAPS approach their roll-out phase.

In addition to reviewing regulations pertaining to event safety and risk management within the cycling industry, it is advised that this opportunity is used to review current management systems so as to align management strategies and vision to incorporate requirements contained within other relevant codes, standards and acts.

EXISTING RISK MANAGEMENT SYSTEMS

All research indicates that the current focus on risk management within the cycling industry, is lacking and requires revisiting. While it is appreciated that CSA and their respective affiliates and commissions are predominately voluntary in nature, the reality is that the current approach to industry risk management exposes CSA, provincial commissions as well as event organisers and cyclists to a degree of risk.

South Africa continues to position and market itself as a sporting destination to the rest of the world, and in doing so focus is being placed on safeguarding the sustainability of sports within the country. This is one of the reasons that has seen the introduction of the SASREA, coupled with a general national and international drive to expand on and improve safety considerations within all sporting and recreational sectors. South Africa is steadily showing greater appeal as an international sporting destination and the western world demand a high degree of safety; the current drive to add to safety and risk considerations for events, is only going to grow.

Existing event organiser regulations, seen within the provincial commissions, are somewhat outdated in their approach and do not in any way address the requirements as contained within the SASREA. Essentially, the development and implementation of a management system is required as well as the provision of revised regulations, which incorporate the requirements of the SASREA.

Such a review is inevitable, owing to a number of factors. In addition to the legal obligation placed upon CSA to provide guidance in this regard, it is imperative to note that event sponsors and partners are equally responsible for ensuring that events in which they hold a commercial interest, apply the act and its requirements accordingly. This creates a situation whereby event sponsors start to withdraw sponsorships from events that take place in industries and sectors that are not adequately regulated. An event sponsor cannot afford to expose themselves to possible litigation subsequent to non-compliance with legislation; the solution for said sponsors is to either:

- a) Withdraw from unregulated markets and move to regulated ones
- b) Internally ensure legal compliance wrt their legal obligations

- c) Refocus their marketing budget allocations

The reality is that the more prominent sponsors have already started to adopt the above approach and this will continue to become more common as focus on the enforcement of the act begins and increases. Industries and sectors that do not hold the interests of event sponsors and partners in mind, are ultimately going to lose already fiercely competed for sponsorships. As much as this reality can be regarded as an area of concern, it can equally be considered as a future draw card.

APPROACH

It is advised that CSA welcome this current transformation process and use it as an opportunity to remodel risk and safety management applied to the industry and its events. Through adopting a proactive approach, one is afforded the ability to establish balances and practical solutions going forward, which will not only satisfy legal requirements placed upon CSA, but further showcase cycling as an innovative and pioneering industry that leads by example. Such approaches have been adopted by the likes of Motor Sport South Africa (MSA), largely contributing to continued and sustainable growth of motorsports within the country.

The management approach can be broken down into the following stages:

1. Industry Risk Assessment – Event Safety Research
 - a. Identify areas of recurrent risk exposure
 - b. Develop management strategies
2. Development of revised regulations
 - a. Incorporating legislative requirements
 - b. Address key considerations
3. Development of associated control systems
 - a. Medical Services
 - b. Safety Services
 - c. Other following completion of point 1(a)
4. Review of CSA sanctioning fees
5. Adoption of revised regulations
6. Provisional implementation of regulations (grace period applied)
 - a. National, Regional, Provincial
7. Implementation of revised sanctioning fees
8. Implementation of control systems as outlined in point 3
9. Development of internal capacity
 - a. Commissaires
 - b. Administrative
10. National workshops – through provincial commissions
11. National internal audits - event compliance
 - a. All year round
 - b. Selected, key events initially
12. Annual review

The above process is one which will not only see CSA satisfying their legal obligations in terms of the SASREA, but is also one which will go a long way to address key considerations contained within other acts that have indirect bearing on the primary objective, such as the Consumer Protection Act.

CHALLENGES

- Resistance to change
 - Inevitable, high-level education required. Will be overcome once a practical and cost effective solution is available to organisers.
- Cost implications
 - Inevitable, can be contained with a proactive approach. Cost implications for the organiser and subsequently the end-user, need not be significant.
- Time constraints
 - Dedicated focus and commitment will see the objectives being achieved.

TIMELINE

Taking into consideration the current stage of the SASREA implementation process, as well as the fact that the act in question has already been legislation for a year, it is advisable that this process be afforded priority consideration and focus. The technical planning aspects of the process have been largely addressed and it is a matter of determining certain details to enhance the proposed system where possible. There is a need for some research to be conducted which needs to, for all intensive purposes, be driven by CSA. The findings from such research will allow clarity of some issues which have relevance in this process. Research in this context refers to e-mail based questionnaires and not a costly and technical research programme.

X-Country Medical is prepared to manage the entire process on a pro bona basis, provided the necessary support is provided by CSA. Any direct costs relating to the process, excluding professional services directly related to the process and provided by X-Country Medical, shall be borne by CSA.

CONCLUSION

The reviewing of CSA regulations, relating to event organiser guidelines and safety, is inevitable and will become a costly process if approached reactively. It is possible to contain and offset associated and ongoing costs of applying the required processes, however this needs to be done while there is leniency to explore practical options and develop systems without pressing timelines. The SAPS aim to roll-out their enforcement phase of this project starting March 2012; it is advised that CSA aim to be well underway in working towards providing their members and organisers with comprehensive guidelines, regulations and supporting systems, which are in-line with legislation and best practices.