



Australian
Competition &
Consumer
Commission

Our Ref: C2003/838
Your Ref: DGW:CC:MS:92321
Contact Officer: Gavin Jones
Contact Number: 03 9290 1475

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3 July 2007

Mr David Williams
Partner
Mullins Lawyers
GPO Box 2026
BRISBANE QLD 4001

By facsimile 07 3224 0333

Dear Mr Williams

Re: Exclusive dealing notification N91131 lodged by Sleepy's Pty Ltd (Sleepy's)

Thank you for your letter received by the Australian Competition and Consumer Commission (the ACCC) on 25 June 2007 in which you advise that Sleepy's seeks to withdraw the above mentioned notification lodged with the ACCC on 16 June 2003.

The two forms of conduct notified were:

- That retailers only sell stock which is approved by the Licensor, and which is purchased only from suppliers who the Licensor nominates as approved or preferred suppliers.
- That retailers acquire, install and operate B.rms/BGlobal, which is a retail management software system.

Section 93(7C) of the *Trade Practices Act 1974* provides that the legal immunity conferred by the lodging of a third line forcing notification ceases to be in force when the notice is withdrawn, in this instance, on 25 June 2007.

I understand that Sleepy's does not currently require that its franchisees acquire, install and operate the B.rms/BGlobal retail management software system.



Could you please advise whether Sleepy's continues to require that its franchisees only sell stock which is approved by Sleepy's, and is purchased from suppliers nominated by Sleepy's as approved or preferred suppliers?

If it is the case that Sleepy's requires its franchisees to only purchase and sell stock from a nominated third party or parties, please provide details of how this requirement is enforced.

Finally, could you please advise whether Sleepy's intends to write to its franchisees informing them that the notification has been withdrawn?

Your response to these questions by **10 July 2007** would be greatly appreciated.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Gavin Jones on 03 9290 1475.

Yours sincerely



Scott Gregson
General Manager
Adjudication Branch