

# Form G

Commonwealth of Australia  
*Competition and Consumer Act 2010 — subsection 93 (1)*

## NOTIFICATION OF EXCLUSIVE DEALING

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with subsection 93 (1) of the *Competition and Consumer Act 2010*, of particulars of conduct or of proposed conduct of a kind referred to subsections 47 (2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

### 1. Applicant

(a) **Name of person giving notice:**  
*(Refer to direction 2)*

N96516 Snooze Sleep Well Pty Limited ABN 85 006 298 755 (**Snooze**)

(b) **Short description of business carried on by that person:**  
*(Refer to direction 3)*

Snooze is the franchisor of a network of over 70 bedroom specialist retail stores throughout Queensland, New South Wales, Australian Capital Territory, South Australia, Western Australia and Victoria operating under the 'Snooze' brand.

Each Snooze retail store offers for sale mattresses, bed frames, bedroom furniture, home wares and accessories, manchester and linen and trades under the 'Snooze' brand (**Snooze Store**).

64 of the Snooze Stores are operated by franchisees (**Snooze Franchisees**), Snooze operates 6 company owned Snooze Stores.

In 2002, Snooze became a wholly owned subsidiary of Freedom Group Limited, a lifestyle retail organisation operating in Australia and New Zealand with brands including Freedom, Bay Leather Republic and Big Brand Outlet. In 2006, the Freedom Group joined the Steinhoff International group, and was renamed Steinhoff Asia Pacific Limited. Steinhoff International is a global raw materials, manufacturing, distribution and retail organisation with operations in 17 countries.

(c) **Address in Australia for service of documents on that person:**

The Managing Director  
Snooze Sleep Well Pty Limited  
21a Shierlaw Ave  
Canterbury VIC 3126

### 2. Notified arrangement

(a) **Description of the goods or services in relation to the supply or acquisition of which this notice relates:**

Snooze intends to launch the new Snooze branded linen and manchester range of Approved Products. As such, Snooze intends to mandate that all Snooze Stores

offer and sell the new Snooze branded linen and manchester range of Approved Products to customers.

As at the date of this Notification, the products to be designated as the Snooze branded linen and manchester range of Approved Products are sheet sets, pillows, pillow protectors, mattress protectors and quilts.

This Snooze branded linen and manchester range of Approved Products is referred to in this Notification as the "**Notified Snooze Branded Linen and Manchester Product Range**", and the current products included in the Notified Snooze Branded Linen and Manchester Product Range (as at the date of this Notification) are set out in Annexure B to this Notification. The specific linen and manchester products in the Notified Snooze Branded Linen and Manchester Product Range may change from time to time. Snooze Franchisees will be kept informed of changes to the specific products included in the Notified Snooze Branded Linen and Manchester Product Range.

This Notification relates to the acquisition by all Snooze Franchisees of the Notified Snooze Branded Linen and Manchester Product Range from specified third party suppliers.

The specified third party suppliers for the products in the Notified Snooze Branded Linen and Manchester Product Range will be those approved supplier/s of each of the products as notified by Snooze to the Snooze Franchisees from time to time (**Approved Suppliers**). The Approved Suppliers may vary from time to time for example when there are changes to the specific products in the Snooze Branded Linen and Manchester Product Range.

**(b) Description of the conduct or proposed conduct:**  
(Refer to direction 4)

*Snooze Franchisee contractual obligations*

Snooze Franchisees have obligations under their franchise agreement with Snooze in relation to the products that they can:

- (a) purchase for use in their Snooze Store; and
- (b) sell in their Snooze Store.

Extracts of the relevant clauses from the template Snooze franchise agreement are set out in Annexure A.

*Proposed conduct*

Snooze proposes to require its Snooze Franchisees to stock in their Snooze Store at all times the Notified Snooze Branded Linen and Manchester Product Range from the list of Approved Products published by Snooze from time to time. Snooze proposes to require its Snooze Franchisees to purchase the Notified Snooze Branded Linen and Manchester Product Range from Approved Suppliers.

The list of Approved Suppliers for the Notified Snooze Branded Linen and Manchester Product Range will be set out in the Snooze franchisee operations manual (**Operations Manual**) that each Snooze Franchisee is provided with when they initially become a Snooze Franchisee. The Operations Manual is updated by Snooze from time to time. The list of Approved Suppliers and the list of products included in the Notified Snooze Branded Linen and Manchester Product Range will change from time to time. Any changes to the list of products in the Notified Snooze Branded Linen and Manchester Product Range and the list of Approved Suppliers of products in the Notified Snooze Branded Linen and Manchester

Product Range will be notified to the Snooze Franchisees by way of updates to the Operations Manual.

If the products included in the Notified Snooze Branded Linen and Manchester Product Range are changed, Snooze Franchisees will be given a reasonable period of notice to transition the current product range stocked in their Snooze Store to the updated products included in the Notified Snooze Branded Linen and Manchester Product Range.

By nominating a Notified Snooze Branded Linen and Manchester Product Range and Approved Suppliers of products within the Notified Snooze Branded Linen and Manchester Product Range, Snooze seeks to ensure:

- (a) consistency in the product type offered to all Snooze Franchisees and offered by Snooze Franchisees to consumers through Snooze Stores;
- (b) consistency in the high quality of Snooze branded product offered to all Snooze Franchisees and by all Snooze Franchisees to consumers through Snooze Stores, as a result of strict quality checks and quality control measures of Approved Suppliers;
- (c) that products sold in Snooze Stores are compliant with safety regulations as a result of the consistent product range offered in each Snooze Store;
- (d) consistency in delivery of products and competitive pricing of the products;
- (e) consistency in the service that can be provided to customers of Snooze Stores; and
- (f) that Snooze's national advertising campaigns cover a product range that will be stocked by all Snooze Stores.

As outlined below, Snooze maintains that the public benefits that will result from the proposed conduct outweighs any public detriment.

**3. Persons, or classes of persons, affected or likely to be affected by the notified conduct**

**(a) Class or classes of persons to which the conduct relates:  
(Refer to direction 5)**

Snooze Franchisees operating Snooze Stores in Australia pursuant to a franchise agreement.

**(b) Number of those persons:**

**(i) At present time:**

There are 51 Snooze Franchisees at the date of this notice. These 51 Snooze Franchisees operate 64 Snooze Stores (some Snooze Franchisees operate more than one Snooze Store).

**(ii) Estimated within the next year:  
(Refer to direction 6)**

It is estimated that within the next 12 months there will be approximately 55 Snooze Franchisees in total. However, the actual number will depend on market trends and demands and other factors.

**(c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:**

Not applicable. The number of Snooze Franchisees exceeds 50.

**4. Public benefit claims**

**(a) Arguments in support of notification:  
(Refer to direction 7)**

Please refer to paragraph 4(b) below.

**(b) Facts and evidence relied upon in support of these claims:**

The public benefit arising from the proposed conduct (detailed in section 2(b) of this Notification) outweighs any potential detriment. The public benefits include:

- (1) Snooze Franchisees will pay competitive prices and receive competitive terms for the provision of the Notified Snooze Branded Linen and Manchester Product Range as Snooze Franchisees will be able to negotiate such prices and terms with the suppliers of the products in the Notified Snooze Branded Linen and Manchester Product Range given that all Snooze Franchisees will stock products from the Notified Snooze Branded Linen and Manchester Product Range in their Snooze Store. As this is the first time the Notified Snooze Branded Linen and Manchester Product Range is being launched, it is anticipated that the more orders are placed by Snooze Stores, the more competitive the prices and supply terms from its suppliers will be. This will allow Snooze Franchisees to offer favourable prices to consumers and establish a competitive advantage.
- (2) The increased competitiveness and viability of the Snooze Franchisees will enable them to compete with and promote competition in the bedroom specialty bedroom retail market, resulting in greater competition at the retail level and better prices and increased service levels for end consumers.
- (3) Business efficiency is enhanced as it is inefficient for each Snooze Franchisee to assess the ability of each of its suppliers to meet Snooze's safety, quality and other specifications. The proposed conduct will allow Snooze to draw on its knowledge and experience in the specialty bedroom retail industry to identify those suppliers that can and will supply products of a particular standard as required – particularly given the Snooze branding of the Notified Snooze Branded Linen and Manchester Product Range, removing this burden from Snooze Franchisees.
- (4) Snooze will be able to ensure that Snooze Stores offer customers a consistent product offering. It is important to the image of the national Snooze Store network, and to ensure the satisfaction of its customers, that customers be able to purchase its own-branded products at all Snooze Stores.
- (5) Snooze will be able to conduct national advertising campaigns featuring the Notified Snooze Branded Linen and Manchester Product Range as these products will be readily available in all Snooze Stores throughout Australia. Otherwise Snooze will be limited in its ability to conduct national advertising campaigns (ie on TV and the internet) as there will be no consistency of this product range stocked in each Snooze Store nationally.
- (6) The proposed conduct will ensure consistency, uniformity and quality control, which is paramount to the integrity of the Snooze brand and reputation.
- (7) The proposed conduct provides for increased quality of the products being offered under the Snooze name and brand as the Approved Suppliers are

required to comply with certain standards and quality control measures and checks.

- (8) There are also a number of benefits to be gained by the Approved Suppliers from the proposed conduct. By being appointed as an Approved Supplier, the supplier will have some degree of certainty as to the volumes of products that Snooze Franchisees will order from the supplier. This will give the Approved Suppliers a greater ability to plan for their business and may encourage the Approved Suppliers to invest in their business. The increased volume of products sold to Snooze Franchisees will also result in greater economies of scale and efficiencies within the Approved Supplier's business. This will enable the Approved Supplier to supply the Notified Snooze Branded Linen and Manchester Product Range to Snooze Franchisees at more competitive prices, increasing competition and resulting in lower prices to consumers.

## 5. Market definition

**Provide a description of the market(s) in which the goods or services described at 2 (a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions): (Refer to direction 8)**

However the relevant markets are defined, Snooze submits that they are characterised by a high degree of competition and a large number of active and meaningful participants.

The markets can be reasonably identified as the Australian markets for the:

- (1) broad wholesale supply of manchester and linen; and
- (2) retail sale of manchester and linen.

## 6. Public detriments

- (a) **Detriments to the public resulting or likely to result from the notification, in particular the likely effect of the notified conduct on the prices of the goods or services described at 2 (a) above and the prices of goods or services in other affected markets:**  
*(Refer to direction 9)*

It is submitted that the arrangement will not result in any anti-competitive detriment as it will not cause a lessening of competition. Please refer to paragraph 6(b) below.

- (b) **Facts and evidence relevant to these detriments:**

The public detriments that may flow from the notified conduct are discussed below. However, Snooze contends that any detriment is negligible, and is far outweighed by the public benefits outlined above.

*In relation to the market for the broad wholesale supply of manchester and linen:*

- (1) The market for the wholesale supply of manchester and linen is a highly competitive market with a number of participants.

- (2) Snooze Franchisees are entitled to, in addition to acquiring linen and manchester products from the Notified Snooze Branded Linen and Manchester Product Range:
- (a) also acquire linen and manchester products from the list of other Approved Products issued by Snooze from time to time (see the relevant clauses from the Snooze Franchise Agreement, as set out in Annexure A to this Notification) (**Other Approved Products**);
  - (b) also acquire linen and manchester products of the Snooze Franchisee's own determination. Snooze Franchisees may purchase products sold in their Snooze Store from product ranges and suppliers not included in the Notified Snooze Branded Linen and Manchester Product Range or on Snooze's list of Approved Products (see the relevant clauses from the Snooze Franchise Agreement, as set out in Annexure A to this Notification) (**non- Approved Products**); and
  - (c) request that Snooze consent to a Snooze Franchisee's request to use a linen or manchester product from another supplier if the product conforms to certain standards and the Snooze Franchisee satisfies certain conditions (see the relevant clauses from the Snooze Franchise Agreement, as set out in Annexure A to this Notification) (**Alternate Suppliers**).
- (3) Snooze Franchisees will still have sufficient ability to stock their Snooze Store with products of their determination including with Other Approved Products, non-Approved Products and products from Alternate Suppliers, notwithstanding the requirement on Snooze Franchisees to stock the Notified Snooze Branded Linen and Manchester Product Range.
- (4) The agreements to be entered into between Snooze and Approved Suppliers will not grant exclusive rights to those suppliers for the ongoing supply of the relevant products to Snooze Franchisees. Snooze may appoint different suppliers as Approved Suppliers from time to time. In determining whether to appoint a supplier as an Approved Supplier, Snooze will consider such things as quality of products, ability to supply, the volume required and price.
- (5) Snooze will not be limited in its dealings with competitors of the Approved Suppliers.

*In relation to the market for the retail sale of manchester and linen:*

- (6) The market for the retail sale of manchester and linen is a highly competitive market with a number of participants.
- (7) Consumers may acquire many similar or equivalent types of products included in the Notified Snooze Branded Linen and Manchester Product Range from any number of businesses, not just Snooze Stores operated by Snooze Franchisees.
- (8) Snooze submits that the proposed conduct will result in better quality products and services being provided to customers in the relevant retail market and better prices for those products.

- (9) The average number of manchester and linen ranges displayed in Snooze Stores is 30 ranges, comprising of 20 manchester ranges (60 products) and 10 linen ranges (28 products). There are a total of 77 manchester and linen ranges, comprising of 65 manchester ranges (250 products) and 12 linen ranges (170 linen products), available to be stocked in Snooze Stores by Snooze Franchisees, as Approved Products of Snooze. By requiring Snooze Franchisees to stock just the Notified Snooze Branded Linen and Manchester Product Range, currently comprising of 45 manchester products and 17 linen products, Snooze Franchisees will still have the ability to determine the remaining manchester and linen that the Snooze Franchisees wishes to sell in their Snooze Store from the range of Approved Products, non-Approved Products and from Alternate Suppliers. Snooze anticipates that the new Notified Snooze Branded Linen and Manchester Product Range shall be in addition to, and not instead of, existing manchester and linen products otherwise sold in Snooze Stores.

**7. Further information**

- (a) **Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:**

Sonia Boyle  
General Counsel  
Steinhoff Asia Pacific Limited  
3 Apollo Place  
Lane Cove NSW 2066

Dated..... *8 January 2013* .....

Signed by/on behalf of the applicant

*Sonia Boyle*  
.....  
(Signature)

**Sonia Boyle**  
(Full Name)

**Steinhoff Asia Pacific Limited**  
(Organisation)

**General Counsel**  
(Position in Organisation)

*on behalf of Snooze Sleep Well Pty Limited ABN 85 006 298 755 of 21A Shierlaw Avenue,  
Canterbury VIC 3126*

**“Annexure B”**  
**Form G filed by Snooze Sleep Well Pty Ltd**

**The products included in the Notified Snooze Branded Linen and Manchester Product Range**

1. Linen - sheet sets.

STOCK CODE	PRODUCT
	<b>IDC 225TC 100% Egyptian Cotton Percale Sheet set 40cm wall includes 1 x Flat, 1 x Fitted and 1/2 pillow cases.</b>
IDC0001	SNOOZE SHEET SET SB 225TC WHITE
IDC0002	SNOOZE SHEET SET SBKS 225TC WHITE
IDC0003	SNOOZE SHEET SET DB 225TC WHITE
IDC0006	SNOOZE SHEET SET SB 225TC PINK
IDC0007	SNOOZE SHEET SET SBKS 225TC PINK
IDC0008	SNOOZE SHEET SET DB 225TC PINK
IDC0011	SNOOZE SHEET SET SB 225TC BLUE
IDC0012	SNOOZE SHEET SET SBKS 225TC BLUE
IDC0013	SNOOZE SHEET SET DB 225TC BLUE
	<b>IDC 400TC 100% Egyptian Cotton Sheet set 50cm wall includes 1 x Flat, 1 x Fitted and 2 pillow cases.</b>
IDC0022	SNOOZE SHEET SET QS 400TC WHITE
IDC0023	SNOOZE SHEET SET KS 400TC WHITE
IDC0025	SNOOZE SHEET SET QS 400TC IVORY
IDC0026	SNOOZE SHEET SET KS 400TC IVORY
IDC0028	SNOOZE SHEET SET QS 400TC LATTE
IDC0029	SNOOZE SHEET SET KS 400TC LATTE
IDC0031	SNOOZE SHEET SET QS 400TC CHARCOAL
IDC0032	SNOOZE SHEET SET KS 400TC CHARCOAL

2. Manchester – pillows, pillow protectors, mattress protectors, quilts.

STOCK CODE	PRODUCT
	<b>Pillows</b>
BAM0646	Micro Fibre Low Pillow
BAM0647	Micro Fibre Med Pillow
BAM0648	Micro Fibre High Pillow
BAM0686	Latex Med Pillow
BAM0656	Latex High Pillow
BAM0687	Memory Foam Med Pillow
BAM0653	Memory Foam High Pillow
BAM0657	Goose Down Med Pillow
	<b>Pillow Protectors</b>



BAM0678	Cotton Pillow Protector
BAM0681	Tencel Pillow Protector
	<b>Mattress Protectors</b>
BAM0658	Cotton Protector SB
BAM0660	Cotton Protector SBKS
BAM0661	Cotton Protector DB
BAM0662	Cotton Protector QS
BAM0663	Cotton Protector KS
BAM0666	Tencel Protector SB
BAM0668	Tencel Protector SBKS
BAM0669	Tencel Protector DB
BAM0670	Tencel Protector QS
BAM0671	Tencel Protector KS
	<b>Quilts</b>
BAM0613	Microfibre 250gm SB
BAM0614	Microfibre 250gm DB
BAM0615	Microfibre 250gm QS
BAM0616	Microfibre 250gm KS
BAM0608	Cotton 300gm SB
BAM0609	Cotton 300gm DB
BAM0610	Cotton 300gm QS
BAM0611	Cotton 300gm KS
BAM0598	Wool 350gm SB
BAM0599	Wool 350gm DB
BAM0600	Wool 350gm QS
BAM0601	Wool 350gm KS
BAM0602	Wool 350gm SUPER KS
BAM0603	Wool 550gm SB
BAM0604	Wool 550gm DB
BAM0605	Wool 550gm QS
BAM0606	Wool 550gm KS
BAM0607	Wool 550gm SUPER KS
BAM0626	Tencel 450gm SB
BAM0627	Tencel 450gm DB
BAM0628	Tencel 450gm QS
BAM0629	Tencel 450gm KS
BAM0630	Tencel 450gm SUPER KS
BAM0633	Down 640gm QS
BAM0634	Down 640gm KS

The products in the Notified Snooze Branded Linen and Manchester Product Range above are subject to change from time to time. Snooze Franchisees will be notified of changes to the list above by way of notification of changes to the Operations Manual.

## DIRECTIONS

1. In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their notification.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

2. If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
3. Describe that part of the business of the person giving the notice in the course of the which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in section 47 of the *Competition and Consumer Act 2010* have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
5. Describe the business or consumers likely to be affected by the conduct.
6. State an estimate of the highest number of persons with whom the entity giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.
7. Provide details of those public benefits claimed to result or to be likely to result from the proposed conduct including quantification of those benefits where possible.
8. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
9. Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible.