

## Financial Markets Conduct (Snakk Media Limited Share Sale Plan) Exemption Notice 2016

Pursuant to section 556 of the Financial Markets Conduct Act 2013, the Financial Markets Authority, being satisfied on the matters set out in section 557 of the Act, gives the following notice.

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### Notice

#### 1 Title

This notice is the Financial Markets Conduct (Snakk Media Limited Share Sale Plan) Exemption Notice 2016.

#### 2 Commencement

This notice comes into force on 23 February 2016.

#### 3 Revocation

This notice is revoked on the close of 22 August 2016.

#### 4 Interpretation

(1) In this notice, unless the context otherwise requires,—

**Act** means the Financial Markets Conduct Act 2013

**Closing Date** means the closing date of the Share Sale Plan

**Information Pack** means the document or documents to be sent by SNK to the registered address or recorded email address of Shareholders eligible to participate in the Share Sale Plan

**NZX** means NZX Limited

**NXT Market** means the NXT Market operated by NZX

**Offer** means an unsolicited offer, to which the Regulations apply, to acquire a power to dispose of shares

**Opening Date** means the opening date of an offer under the Share Sale Plan

**Participation Notice** means the form for use by Shareholders to grant SNK, or an associated person acting with SNK's consent, the power to dispose of Shares under the Share Sale Plan

**Regulations** means the Financial Markets Conduct Regulations 2014

**Share** means an ordinary share in SNK

**Shareholder** means a person who is the registered holder of Shares with a registered address in New Zealand

**Share Sale Plan** means an arrangement under which SNK, or an associated person acting with SNK's consent, makes an Offer to acquire from Shareholders who each hold not more than such number of Shares as are set out in the Information Pack as being the maximum number of Shares to participate in the Share Sale Plan at a date no earlier than 10 working days before the Opening Date the power to dispose of Shares, and the subsequent instruction of a broker, sale of the Shares and remittance of proceeds to the Shareholder on the terms set out in the Information Pack

**SNK** means Snakk Media Limited

- (2) Any term or expression that is defined in the Act or the Regulations and used, but not defined, in this notice has the same meaning as in the Act or the Regulations.

## 5 Exemptions

SNK and every person making an offer on behalf of either or both of them are exempted from regulations 163 to 170 (inclusive), 172 and 177 of the Regulations, in respect of the Share Sale Plan.

## 6 Conditions of exemptions

The exemptions in clause 5 are subject to the following conditions:

- (a) within four working days after the Opening Date, SNK must send a copy of the Information Pack and Participation Notice to each Shareholder that is eligible to participate in the Share Sale Plan as at a date no earlier than 10 working days before the Opening Date. The Information Pack and Participation Notice must be sent to the registered address or recorded email address of each Shareholder; and
- (b) the Information Pack must contain all the terms and conditions of the Share Sale Plan; and
- (c) the Information Pack must include the following information or information to the following effect:
  - (i) that participation in the Share Sale Plan involves SNK having authority to arrange for the sale of Shareholders' Shares; and
  - (ii) information about alternatives a Shareholder has to participating in the Share Sale Plan, including that a Shareholder does not have to sell their Shares through the Share Sale Plan and that the Shareholder can sell Shares on NXT Market through a broker; and
  - (iii) the minimum price at which the Shares will be sold, which must not be less than the volume weighted average price of Shares on the NXT Market in the 30 trading days prior to the date of the Information Pack (adjusted for any share reconstruction by SNK during that period); and

- (iv) that the proceeds Shareholders may receive from the sale of the Shares will be affected by, but may differ from, the market price of Shares on the NXT Market at the time of sale; and
  - (v) where and how Shareholders can obtain up-to-date information on the market price of Shares traded on the NXT Market; and
  - (vi) that Shareholders are encouraged to seek advice from an independent broker or financial adviser; and
  - (vii) the Opening Date and the Closing Date; and
  - (viii) information about the timing between the instruction to sell and the sale of the Shares under the Share Sale Plan; and
- (d) each offer under the Share Sale Plan must be open for not less than 24 days from the Opening Date; and
  - (e) each Participation Notice sent to a Shareholder must state the number of Shares owned by that Shareholder as at a point in time specified in the Participation Notice (being a time that is not more than 10 working days before the Opening Date); and
  - (f) Shares of participating Shareholders must be sold for not less than the price specified in paragraph 6(c)(iii) above; and
  - (g) all brokerage fees and registry costs relating directly to the sale of Shares made under the Share Sale Plan will be met by SNK; and
  - (h) all the proceeds of a sale of Shares pursuant to a Participation Notice received by SNK must be distributed to the participating Shareholders; and
  - (i) a Shareholder whose Shares are sold pursuant to a Participation Notice received by SNK must be paid their proceeds of sale as soon as practicable after their Shares have been sold and, in any event, within 28 days after the date on which their Shares are sold.

Dated at Wellington this 22nd day of February 2016.



Garth Stanish  
Director of Capital Markets  
Financial Markets Authority

### Statement of reasons

This notice comes into force on 23 February 2016 and is revoked on 22 August 2016.

This notice exempts Snakk Media Limited (**SNK**) and its associated persons from regulations 163 to 170 (inclusive), 172 and 177 of the Financial Markets Conduct Regulations 2014 (**Regulations**) in relation to unsolicited offers to acquire a power to dispose of Shares in SNK.

The Financial Markets Authority (**FMA**), after satisfying itself as to the matters set out in section 557 of the Financial Markets Conduct Act 2013 (**Act**), considers that it is appropriate to grant the exemptions because—

- the Share Sale Plan provides for sales of Shares at, or above, a disclosed floor price. The policy behind the Regulations was to regulate unsolicited offers that may have resulted in the sale of



shares at significantly less than market value. The floor price will be based upon the volume weighted average price prior to the Share Sale Plan being made available to Shareholders. It is a condition of the exemptions that the Shares sold under the Share Sale Plan will be sold for no less than the floor price. This condition to the exemption is consistent with promoting the confident and informed participation of investors in the Share Sale Plan:

- not all of the matters that are required to be disclosed under regulation 168 are relevant in the context of an offer under the Share Sale Plan (for example, a fair estimate of value of the power to dispose of Shares) because SNK is facilitating the sale of Shares at, or above, a floor price to unknown third parties. As such the exemptions would avoid unnecessary compliance costs:
- the conditions to the draft SNK exemption notice will require disclosure that is relevant in the circumstances, including disclosure of the market price of the Shares, expenses payable by Shareholders and alternatives Shareholders have to participating in the Share Sale Plan. As such the exemptions would be consistent with providing timely, accurate and understandable information to persons to assist those persons to make decisions relating to financial products:
- as SNK wishes to dispose of the Shares in a single block trade, it will not be practicable to allow for cancellations after the closing date for the Share Sale Plan. Accordingly, SNK's cancellation duties under regulation 177 that would apply if an agreement to acquire the power to dispose of Shares through the Share Sale Plan were cancelled under regulation 173, are unnecessary as Shares will not be sold below the minimum price specified in the Share Sale Plan and allowing for cancellation would be impracticable in the circumstances. As such the exemptions would avoid unnecessary compliance costs:

The exemption is subject to conditions that:—

- Shareholders are sent an Information Pack containing all the details and terms and conditions of the Share Sale Plan; and
- each offer under the Share Sale Plan to purchase Shares will be open for at least 24 days; and
- Shares are not sold below a minimum price outlined in the Share Sale Plan; and
- all brokerage fees and registry costs relating directly to the sale of Shares under the Share Sale Plan will be met by SNK.

The FMA is satisfied, that the extent of the exemption is not broader than is reasonably necessary to address the matters that give rise to them because of the conditions that have been included and it is limited to the Shareholders who qualify to participate in the Share Sale Plan.