



**MDS LEGAL**  
L A W Y E R S

*(formerly McCallum Donovan Sweeney)*

Level 2, Irwin Chambers

16 Irwin Street

Perth 6000

Western Australia

T 08 9325 9353 F 08 9221 2220

E [mds@mdslegal.com.au](mailto:mds@mdslegal.com.au) W [www.mdslegal.com.au](http://www.mdslegal.com.au)

**Our Ref:** PGD/23838  
**Author:** Paul Donovan  
**Email:** [pdonovan@mdslegal.com.au](mailto:pdonovan@mdslegal.com.au)

23 April 2012

**BY EMAIL:** [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au)

Dr Richard Chadwick  
General Manager  
Adjudication Branch  
Australian Competition & Consumer Commission

Dear Dr Chadwick

**Application for Authorisation [A91280] by the Real Estate Institute of Western Australia (Inc) (REIWA)  
Final Determination dated 19 April 2012**

I refer to the email that you sent to me last Thursday and the final determination in this matter, both dated 19 April 2012.

You will recall that in paragraphs 20 and 27 of my letter to you of 29 March 2012 I set out a number of proposals on behalf of REIWA as to how it intended to protect its copyright in relation to forms provided to members of the public and training providers pursuant to the conditions imposed as part of the authorisation. Further, in paragraph 29 of my letter I set out a proposal as to how REIWA intended to comply with condition C3 of the authorisation with respect to the providing by REIWA of notice on its website as to the availability of forms.

The determination has not referred to these proposals and, whilst I assume that the ACCC does not oppose the matters set out in paragraphs 20, 27 and 29 of my letter of 29 March, I seek your confirmation that my understanding is correct.

In paragraph 5.11 of the final determination it has been noted that the substitute authorisation has been sought and granted in respect of particular documents, including REIWA's Articles and 14 Standard Exclusive Agency Forms as they stand at the time of authorisation. Any changes to these documents during the term of the authorisation would not be covered by the authorisation.

---

**NOTICE:** If you are not an authorised recipient of this email, please contact MDS Legal immediately by return email or by telephone on 61-8-9325-9353. In this case, you should not read, print, retransmit, store or act in reliance on this email or any attachments, and should destroy all copies of them. This email and any attachments are confidential and may contain legally privileged information and/or copyright material of MDS Legal or third parties. You should only retransmit, distribute or commercialise the material if you are authorised to do so. Any legal privilege attaching to the contents of this email or any attachments is expressly reserved and is not waived by any transmission to an unauthorised recipient.

MDS Legal Pty Ltd (ACN: 123 775 735) trading as MDS Legal

rss\00412118.DOCX

Of course, from time to time REIWA makes changes to its documents, including its Articles and its Standard Exclusive Agency Forms. Most of those changes are of a “housekeeping” nature and might deal with merely legal drafting issues, procedural issues or other matters that would not be expected to have an impact upon public benefits derived from the documents or have an anti-competitive effect. REIWA proposes that, in those circumstances, it merely advise the ACCC of those changes and that it not make a formal application for a minor variation to the authorisation unless REIWA is of the view (in consultation with its legal advisors) that such a step is necessary or unless the ACCC raises issues of its own in relation to the amendments.

If that process is acceptable to the ACCC, to whom do you advise that correspondence regarding these minor types of amendments is addressed?

Should the ACCC wish to discuss this with me at all, please do not hesitate to telephone me.

Otherwise, I look forward to receiving your response.

Yours sincerely



**P G DONOVAN**  
**Director**  
**MDS LEGAL**

cc David Jones  
**BY EMAIL:** [david.jones@acc.gov.au](mailto:david.jones@acc.gov.au)

Imogen Hartcher-O'Brien  
**BY EMAIL:** [Imogen.Hartcher-O'Brien@acc.gov.au](mailto:Imogen.Hartcher-O'Brien@acc.gov.au)

Hannah Ransom  
**BY EMAIL:** [Hannah.Ransom@acc.gov.au](mailto:Hannah.Ransom@acc.gov.au)