



**Australian  
Competition &  
Consumer  
Commission**

Our Ref: 50593  
Contact Officer: Tanya Hobbs  
Contact Number: 02 6243 1029

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7 February 2013

Greg Hipweel  
Partner  
Norton Rose Australia

By email: [greg.hipwell@nortonrose.com](mailto:greg.hipwell@nortonrose.com)

Dear Mr Hipwell

**Third line forcing notification N6527 lodged by Degani Australia Pty Ltd**

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 21 January 2013. The notification has been placed on the ACCC's public register.

Degani Australia Pty Ltd (Degani) is the licensor of a network of licensees that operate 'Degani Bakery Cafes' in Australia under a trademark licence with Degani. Degani proposes to supply its services as licensor under the trademark licence on condition that licensees purchase or acquire Approved Products from Approved Suppliers.

Legal protection conferred by the notification commenced on 4 February 2013.

On the basis of the information that you have provided it is not intended that further action be taken in this matter at this stage.

As with any notification, please note that the ACCC may act to remove the legal protection provided by the notification at a later stage if it is satisfied that the likely benefit to the public from the conduct will not outweigh the likely detriment to the public from the conduct.

This assessment has been made on the basis that Degani will disclose all relevant terms and conditions to current and prospective licensees.

In particular I note that, while the notified conduct does not specifically relate to a franchise system, Degani may be subject to the disclosure requirements of the Franchising Code of Conduct in relation to the notified arrangement. Among other things, these specify that a franchisor (including licensors in a franchise like relationship) must provide information to franchisees in its disclosure document about:

- any restrictions on acquisition of goods or services by the franchisee from other sources
- whether the franchisor or an associate will receive a rebate or other financial benefit from the supply of goods or services to franchisees, including the name of the business providing the rebate or financial benefit and
- whether any such rebate or financial benefit is shared directly or indirectly with franchisees.

More generally I would note that the Franchising Code of Conduct also requires disclosure of:

- ownership by a franchisor or an associate of a franchisor of an interest in any supplier from which the franchisee may be required to acquire goods or services
- any restrictions by a franchisor on the goods or services that a franchisee may supply and
- any restrictions on the persons to whom a franchisee may supply goods or services.

A copy of 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 Tanya Hobbs on 02 6243 1029.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Richard Chadwick', with a long horizontal stroke extending to the right.

Dr Richard Chadwick  
General Manager  
Adjudication Branch