



**Australian  
Competition &  
Consumer  
Commission**

Our Ref: 54503  
Contact Officer: Tanya Hobbs  
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5 May 2014

23 Marcus Clarke Street  
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Mr Greg Hipwell  
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By email: [greg.hipwell@nortonrose.com](mailto:greg.hipwell@nortonrose.com)

Dear Mr Hipwell

### **Third line forcing notification N97392 lodged by Degani Bakery Cafe Pty Ltd**

I refer to the above third line forcing notification lodged with the Australian Competition and Consumer Commission (the ACCC) on 1 May 2014. The notification has been placed on the ACCC's public register.

Degani Bakery Café Pty Ltd (Degani) proposes to offer Degani Bakery franchises to franchisees on condition that the franchisees acquire a variety of products from third party suppliers specified and approved by Degani. Degani currently has no franchisees, although a company associated with Degani operates a network of 60 franchisees which are authorised to use the 'Degani' trade marks. This notification does not relate to those existing franchisees.

Legal protection conferred by the notification will commence on 15 May 2014.

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 franchisees. In particular I note that Degani is required to comply with the disclosure requirements of the Franchising Code of Conduct in relation to the notified arrangement. Among other things, these specify that a franchisor 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



Dr Richard Chadwick  
General Manager  
Adjudication Branch