

Our ref: RT:2201450

15 September 2023



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Dear Anthony and Penny,

Bakers Delight Holdings Limited - Application for authorisation AA1000650 – Request for information

We refer to your letter dated 14 September 2023 requesting further information in relation to the interim and final authorisation application (**Application**) sought to be lodged by Bakers Delight Holdings Ltd (**Bakers Delight**) with the Australian Competition and Consumer Commission (the **ACCC**).

We advise as follows:

1. In around Mid-October 2023 Bakers Delight is seeking to install a new point of sale system (**POS System**) to a select group of Bakers Delight Bakeries (the **pilot group**). The pilot group will consist of approximately 15 Bakers Delight Bakeries.
2. The pilot group will consist of Company Bakeries and Franchised Bakeries that do not deviate the price of their products from the RRP. Furthermore, the Proposed Conduct will also be introduced to approximately 180 bakeries in the Bakers Delight Network that operate in Canada.
3. The reasoning is that these Bakers Delight Bakeries do not compete with one another on pricing.
4. During this period Bakers Delight will install and test the new POS System, with the exception of the price tiers.

Question 1

5. Under the interim authorisation, Bakers Delight is seeking to engage in the entirety of the Proposed Conduct as defined in section 3.1 of the Application. Specifically:

- (a) It is proposed the implementation of the new POS System be undertaken in two batches - 50% of the Bakers Delight Network in November 2023 and the other 50% of the Bakers Delight Network in January and February 2024. This is to minimise any impact of the implementation on the Bakers Delight Network during the busy Christmas trading period.
- (b) At the same time, Bakers Delight wishes to implement the price tiers into the new POS System by creating Promotion Discount Rules for each price deviation which BDH or a Franchisee may want to select.
- (c) During this period the Bakers Delight Information Technology Service Team will test each Promotion Discount rule to ensure that the POS System applies the correct discount as intended.

Question 2

6. If interim authorisation is not granted urgently it will delay the testing of the Proposed Conduct in the POS System and in turn delay the implementation of the POS system in the Bakers Delight Network. Bakers Delight does not wish to extend the existing POS solution used by the Bakers Delight Network which expires in April 2024. Accordingly, if the interim authorisation is not granted Bakers Delight will engage with the POS System supplier to proceed with the implementation of the new POS System without the Proposed Conduct, that is to allow Bakers Delight Bakeries unrestricted ability to deviate pricing, which will mean:
- (a) Bakers Delight's Information Technology Service Team will need to devote significant time and resources to set up the Promotion Discounts and Promotion Discount Records to facilitate the unrestricted ability for Bakers Delight Bakeries to deviate pricing;
 - (b) the costs associated with setting up the Promotion Discounts and Promotion Discount Records to facilitate the unrestricted ability to deviate pricing will be passed on to Franchisees by way of increase to their IT services monthly fee;
 - (c) more "compute" resources are needed to be added to the POS System. If the additional Promotion Discounts and Promotion Discount Records degrade system performance then the further costs associated with this will be directly charged to Franchisees again via an increase to their monthly IT services fee;
 - (d) the increased costs in the form of increases to the monthly IT services fee will most likely lead to price increases of BDH Products to enable Franchisees to recover their increased IT service costs.

Question 3

7. If interim authorisation is granted, but the final authorisation is later denied then Bakers Delight would not be able to withdraw from or terminate its agreement with the new POS system supplier and could not re-activate the current POS system after the system has been deactivated. Bakers Delight would continue as set out in paragraph 6 above.
8. Bakers Delight will consider making further Authorisation applications that offer more price tiers than the number proposed in the current Application. The additional price tiers will allow for Bakers Delight Bakeries a greater ability to deviate the price of Promotion Discounts, but it will cost more to do so due to setting up more Promotion Discounts and Promotion Discount Records compared to the five price tiers as proposed in the current Application. As above, these increased costs will most likely cause the price of BDH Products to increase which will be borne by the consumers.

Question 4

9. Bakers Delight anticipates that it will take 4 weeks to implement the Proposed Conduct and the new POS system. Implementation will take approximately 4 weeks with the implementation to be undertaken in two batches - 50% of the Bakers Delight Network in November 2023 and the other 50% of the Bakers Delight Network in January and February 2024. This is to minimise any impact of the implementation on the Bakers Delight Network during the busy Christmas trading period.

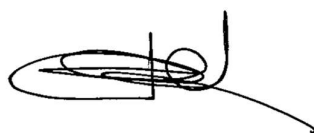
Question 5

10. Bakers Delight commenced engaging with suppliers approximately 18 months ago. The new POS System supplier was selected because it is a multinational company which can better facilitate BDH's global business. The new POS System was selected because it is a superior system to the current system with additional features and improvements including integrated payment gateway, more secure payment options, better layout and user interface and more customer support from the supplier.
11. The limitation in the new POS System's handling of price deviations for Promotion Discounts was not initially apparent and did not become apparent until about March 2023 when the supplier was engaged by Bakers Delight.
12. The process of making Application for Authorisation commenced on 16 March 2023 when we first contacted the ACCC. We have been working with the ACCC since this time to fine tune and lodge the Authorisation Application.
13. Bakers Delight is party to a five-year supply agreement with the new POS System vendor and will be liable for significant financial damages if it is required to terminate the supply agreement and revert to the previous supplier.

In relation to question 6 in your letter dated 14 September 2023, a substantive response will be furnished by 22 September 2023.

Please contact the writer if the ACCC would like any further information or have any further queries.

Yours sincerely



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