

Attn: Penny Bigham
Exemptions ACCC

9th October 2023

Dear Penny Bigham

I write as an interested party regarding the Bakers Delight Holdings Ltd application for authorisation AA10000650 as I am a franchisee with Bakers Delight.

Overall, I support BDH's application and understand the reasoning to try and control the cost of the new POS system, however I do have some concerns. These concerns mainly originate from the misalignment between BDH and BD Franchisees key focuses as BDH's royalties are a percentage of net sales, while Franchisees need to make a profit to survive.

1. Mandatory Promotion Discounts

How do BDH determine which promotion discounts are mandatory and what input do Franchisees have in the process? If the application is approved, I am concerned that more and more promotion discounts will become mandatory which could put Franchisees at risk of not being able to run a viable and profitable business. Currently, even if a promotion discount is mandatory, Franchisees have the option to price it at full price (effectively eliminating the promotion discount).

I would like to see all promotion discounts be optional if Franchisees cannot choose their own price point outside of the 5 tiers BDH propose.

At a minimum there should be a procedure put in place for dispute resolution if Franchisees believe BDH are abusing their power to mandate promotion discounts.

2. Determining Promotion Discount Price Tiers

In the application BDH state that the price tiers are based on what the network currently deviate to and that the tiers will be incremental amounts above or below RRP, however in the proposed list they have released to franchisees (attached) the tiers are not consistent or incremental.

For example: These are the tiers for 3 promotion discounts, all with an RRP of \$9.00

	Tier 1	Tier 2 (RRP)	Tier 3	Tier 4	Tier 5
Promo Disc A	\$8.80	\$9.00	\$9.50	\$10.00	\$11.00
Promo Disc B	\$8.50	\$9.00	\$9.50	\$9.70	\$10.00
Promo Disc C	\$8.50	\$9.00	\$10.00	\$10.50	\$11.00

There needs to be further clarification on how the tiers will be determined.

In the example given in the non-confidential information from BDH it shows that only 1 bakery deviated below the RRP. This would suggest that a more accurate representation of the pricing tiers would be RRP and 4 tiers above RRP.

Bakeries wishing to price lower than RRP will have the ability to manually discount to a lower price point.

In discussing the current deviations used by bakeries, BDH does not disclose how many bakeries utilised these deviated prices. As a Franchisee I deviate the price of all promotion

discounts which are optional and which we choose not to use as there have been past incidences where these promotion discounts have been accidentally activated. Can BDH determine which deviated price points have been used to ensure that the proposed tiers are accurately representing what is used by bakeries?

In section 3.1 (a) (iii) BDH disclosed to the ACCC the percentage of promotional discounts that are mandatory. While this confidential percentage might appear low, it would account for a larger portion of sales at key trading times, such as Christmas and Easter, which is when a lot of Franchisees rely on making more of their profit compared to other times of the year. Which is why it is important that Franchisees have enough input into setting the price tiers.

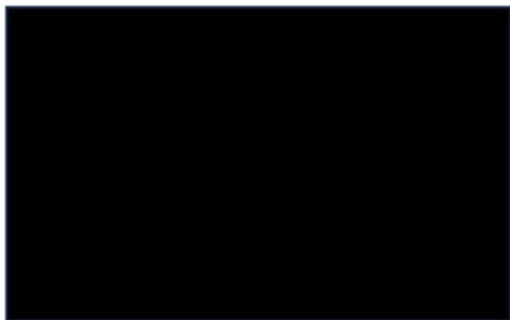
Like with determining which Promotion Discounts are mandatory, at a minimum there should be a procedure in place for dispute resolution if Franchisees believe BDH is compromising their ability to make a profit when Promotion Discount Pricing Tiers are set.

In summary, I believe there needs to be clear guidelines and procedures for dispute resolution between BDH and BD Franchisees regarding mandatory Promotion Discounts and Promotion Discount Pricing Tiers.

There needs to be franchisee involvement in choosing mandatory Promotion Discounts and setting the Pricing Tiers.

And all Promotion Discounts should be optional for Franchisees as each bakery has its own unique set of circumstances. Five pricing options and mandated Promotion Discounts cannot possibly be enough options for over 500 bakeries, all with different running costs.

Thank you for your time and consideration of my concerns as a Bakers Delight Franchisee.



Proposed Tiered Promotion Pricing

