

RECORD OF MEETING

between

ACCC and Bakers Delight Holdings Limited

7 June 2007 – 12pm – Deacons, Melbourne

Present

ACCC:

Scott Gregson, General Manager, Adjudication Branch
Darrell Channing, Director, Adjudication Branch
Sarah Chubb, Project Officer, Adjudication Branch

Bakers Delight Holdings Ltd (Bakers Delight):

Phillip Hickleton, Group Supply Chain Manager
Belinda Slater, Quality Assurance Manager

Deacons:

Greg Hipwell, Partner
Jessica Rowe, Lawyer

Scott Gregson (SG) began by discussing the purpose of the meeting, indicating that the ACCC wanted to clarify (a) Bakers Delight's current and proposed supply arrangements, and (b) the process by which Bakers Delight chooses its suppliers.

Bakers Delight's current supply arrangements

Bakers Delight has arrangements with approximately 35 ingredient suppliers across its supply network, covering 110-115 ingredients.

After notification N92536 was lodged in June 2006, Bakers Delight amended its Operations Manual to make it a requirement that franchisees purchase Approved Products (ie. products that have been assessed by Bakers Delight as meeting Bakers Delight's supply and service requirements) from two distributors, namely PFD Foodservices (PFD) and Manildra. However, at the present time, Bakers Delight does not enforce the requirement that franchisees purchase their products from the two distributors, provided that any alternative suppliers (and their products) also meet Bakers Delight's supply and service requirements. Greg Hipwell (GH) indicated that this has been made clear to franchisees.

SG noted that when franchisees are able to obtain supplies from persons other than approved suppliers, this maintains the benefit of the approved supplier arrangements while allowing flexibility in situations where franchisees wish to negotiate alternative supply arrangements.

Bakers Delight's proposed supply arrangements

In future, Bakers Delight intends to compel franchisees to purchase specific Approved Products (Core Products) from Nominated Suppliers. The Nominated Suppliers will be PFD (for non-flour food products) and Manildra (for flour-based products).

Franchisees will not be able to operate outside these proposed supply arrangements – ie. franchisees will only be allowed to purchase Core Products (ie. food) from the Nominated Suppliers, and will not be able to negotiate alternative food supply arrangements with other suppliers. Franchisees who purchase food products from non-Nominated Suppliers will be in breach of their franchise agreement.

SG asked Bakers Delight why it intends to remove the ability of franchisees to negotiate with alternative suppliers. Phillip Hickleton (PH) indicated that Bakers Delight does not believe franchisees are able to cover off all that needs to be done in order to meet the requirements of the What's In It Manual and Australia's food safety standards. Furthermore, it would be costly for Bakers Delight to assess alternative suppliers and products each time it was asked to do so by a franchisee.

GH advised that franchisees who wish to purchase outside the Bakers Delight system do not always follow the right supplier approval processes. GH also indicated that while approximately 98% of franchisees work within the Bakers Delight system, if 2% of 600 franchisees go outside the system and do not ensure compliance with Bakers Delight's supply and service requirements, then that could be detrimental to consumers and to Bakers Delight.

Darrell Channing (DC) noted that PFD is a distributor of goods manufactured or produced by other businesses. Consequently, franchisees are able to purchase goods from other suppliers that are identical to those supplied by PFD. Given that this is the case, arguments which suggest that the proposed supply arrangements are the only way to maintain consistency and quality, and to ensure compliance with food safety standards, seem to carry less weight. In response, PH indicated that while there are suppliers who may be able to provide identical products at a cheaper price on a short term basis, they are not able to do so on a long term, reliable basis. PH and GH also indicated that the greater the volume supplied by PFD, the cheaper the distribution costs.

SG suggested that if franchisees do find suppliers who are able to supply goods at a cheaper price, Bakers Delight may take this into account during its review of the existing supply arrangements. PH and GH confirmed that this was so.

Supplier selection

PH indicated that when he joined Bakers Delight, a tender process was conducted by a Buying Committee in January each year. However, because January is not the most appropriate time of year for all suppliers, Bakers Delight decided to conduct several tender processes throughout the year. PH indicated that while the tender processes enabled Bakers Delight to obtain the best price for its ingredients, it also had the potential to be very disruptive, given that each time a new supplier is engaged, the product specifications and the What's In It Manual are likely to need updating.

Over time, the Bakers Delight supply arrangements evolved into the current “partnership” arrangements. Most of the current Approved Suppliers were part of the last tender process conducted by Bakers Delight (2-4 years ago, depending on the product in question).

Bakers Delight now selects and reviews its suppliers on a performance basis, taking three key criteria into account – quality, surety of supply and price. Prospective suppliers are identified in a number of ways (eg. via recommendations from the Bakers Delight network; by approaches to Bakers Delight).

GH indicated that product quality is a very important consideration, given that Bakers Delight must comply with food safety standards and publish the What’s In It Manual. GH also discussed the importance of surety of supply, and emphasised the need for Bakers Delight to ensure that its franchisees are able to receive all the necessary ingredients all year round, particularly at peak times when demand for certain products is high.

In relation to price, PH indicated that Bakers Delight has a price review calendar. While the frequency of price reviews varies depending on the product in question, a review will generally be conducted at least every 12 months. Bakers Delight uses industry information, and the prices offered by prospective suppliers, to assess the price of goods during a review. PH discussed the pricing reviews recently conducted in relation to apricots, sultanas and currants.

SG queried whether there is any difference between, for example, the flour provided by different suppliers. Belinda Slater (BS) indicated that all Bakers Delight flour contains folic acid, so if a franchisee purchases flour from someone other than Manildra, Bakers Delight’s claims about the folic acid content of its products may not be correct. PH also indicated that Bakers Delight is working with its suppliers to remove certain anti-oxidants, preservatives and allergens from their products, and that non-approved products may contain these anti-oxidants, preservatives and allergens.

The Supplier Approval Process

The Supplier Approval Process that Bakers Delight conducts (and that franchisees wishing to purchase from alternative suppliers should conduct) involves:

1. Mandatory Ingredient Supply Requirements.
2. A Desktop Audit (ie. checking the credentials and abilities of the supplier, as well as its manufacturing and quality control processes).
3. A physical inspection of the supplier’s premises.
4. If the supplier is a trader or importer, then Bakers Delight assesses the supplier’s product sourcing abilities and processes.

BS indicated that for every ingredient, suppliers must provide an Ingredient Specification. In addition, Ingredient Quality Tracking Reports are also carried out.

Selection of PFD and Manildra

DC enquired about the selection of PFD and Manildra as Bakers Delight's distributors. PH indicated that Bakers Delight was previously with Weston's, who supplied flour and non-flour food products. At the end of 2003, Weston's advised that there would be an increase in its flour and distribution costs. This triggered a review of Bakers Delight's supply arrangements, and PFD and Manildra were ultimately invited to take on Weston's role. PH indicated that several other companies were considered as possible partners for Manildra (eg. Superior Food) prior to PFD being chosen.

PH discussed the Prospective Distributor Scoresheet put together by Bakers Delight, as well as other documentation (eg. the SWOT analysis) in which PFD and Manildra are compared to alternative suppliers/distributors. PH also indicated that before the change to PFD and Manildra, approximately 70 bakeries were involved in an 18-month "test run". These bakeries were satisfied with the services provided by PFD and Manildra, and this was influential in Bakers Delight's decision to appoint PFD and Manildra as distributors.

PH indicated that while Weston's distribution costs were calculated as a percentage of the value of the goods supplied, the distribution costs are now calculated per carton, which has resulted in cost savings.

Rebates

SG enquired about the Conference & Development Fund (C&DF). PH indicated that the 2% contribution paid by Bakers Delight's suppliers into the C&DF is based on the price of the ingredients (not including distribution costs). PH also confirmed that Bakers Delight does not receive any other rebates from its suppliers, apart from contributions to the Ullage Fund.

Complaints

SG enquired as to whether Bakers Delight has received complaints from franchisees about PFD and/or Manildra. PH indicated that the complaints received by Bakers Delight generally relate to the act of distribution (eg. complaints about a particular driver) rather than the ingredients supplied by PFD or Manildra.

Non-food products

SG asked whether Bakers Delight forces its franchisees to purchase non-food products from specific third party suppliers. PH and BS indicated that while Bakers Delight recommends certain non-food suppliers to its franchisees, it does not force franchisees to use particular suppliers for non-food products.

5-star rating system

SG asked about the 5-star rating system used by Bakers Delight. BS indicated that while Bakers Delight is considering making 5-star ratings contingent upon the use of Approved Suppliers, this is not currently the case.

Conclusion

SG concluded by thanking Deacons and Bakers Delight for their time, and by indicating that the ACCC would be in contact in the near future. SG indicated that the ACCC may request some of the documents discussed at the meeting, particularly those relating to price reviews and the selection of PFD and Manildra.