



DQOA ENDORSES COCA-COLA AND DR. PEPPER

The contracts from all three major soft drink companies have been disseminated to the Dairy Queen system. Clearly and unequivocally, the Coca-Cola contract is superior to Pepsi-Cola. It was a major disappointment to DQOA to see such an inferior Pepsi contract offered to the Dairy Queen franchisees. Pepsi management, after having increased its share of the Dairy Queen business from 30% to almost 50%, chose not to renew its endorsement agreement with DQOA. Pepsi, instead, proceeded with the development and introduction of this contract without any advice from the DQOA. **We can assure you, that had we been consulted, we would never have advised Pepsi to introduce this inferior contract.**

The following are key differences between the Pepsi-Cola and Coca-Cola contracts:

1. Term – Pepsi has the later of 7 years or gallonage. Many stores could be under contract to Pepsi for 9 to 11 years. It is absolutely inconceivable that Pepsi would try such a strategy. Coke is a flat 7 years.
2. Distribution – No guarantee that Pepsi products would be placed in broadline distributors. Pepsi's arrangement with its Bottlers makes distribution through normal channels very difficult. Coke continues to distribute through broadline distributors.
3. Distribution of Bottled Waters/Juices – Pepsi says you must purchase these products from Bottlers. Bottlers establish the prices. No mention of individual Bottler minimum order quantities. Coke will distribute through broadline distributors at national account pricing.
4. Sweetener Base – “In the event that franchisee determines to offer ANY PRODUCTS [emphasis added] at its outlets utilizing a neutral sugar base ingredient, then Franchisee will exclusively purchase NSB Products from Pepsi-Cola...” This eliminates your ability to make your own Arctic Rush Base. Coke has no such exclusion regarding store made Arctic Rush Base.
5. Funding – Coke beats Pepsi by 10 cents/gallon (use of Dr. Pepper will alter funding formula for both companies. More about Dr. Pepper further in this News Alert).
6. Marketing Funds –

Coke - “Perform those additional Fountain Beverage marketing activities the parties agree upon.”

Pepsi - “...to be used and spent by franchisees in support of at least 2 annual mutually agreed upon national marketing programs...” “Franchisees will participate in at least 2 Pepsi-Cola approved annual national

marketing programs and at least 1 Pepsi-Cola approved local/DMA marketing programs per year.” “...and Franchisees will use the funds available to Franchisee under this agreement to help offset the advertising and promotion costs of such programs.” What does that mean?

Sounds like you'll have to pick 2 or 3 programs as you do now to earn your 45 cents. If you don't send in the silly form that Pepsi has used in the past, you lose the 45 cents.

7. Conversion Funds – Pepsi doesn't even offer a fund to those who might want to convert from Coke. Pepsi must realize that the chances of that happening with this contract are highly unlikely. Coke offers up to \$750 for conversion.
8. Owning Your Equipment – Pepsi no longer pays you an allowance. Coke will pay 50 cents/gallon.
9. Unearned Allowances – Pepsi would like you to sign its contract and AFTER you sign the contract, Pepsi will let you know if you owe them any unearned funds. If so, they'll be deducted from your marketing funds. There's no such clause in the Coke contract.

The only significant advantage that the Pepsi agreement has over the Coke agreement is service. Pepsi provides unlimited service calls and Coke limits free service to three.

Regarding the legal considerations in both Coke and Pepsi contracts, both contracts are highly in favor of the soft drink company to the significant disadvantage of the franchisee. Please refer to the DQOA website www.dqoa-dqoc.com to review an excellent analysis of the Coke contract by franchisee and attorney Tom Wolf. As Coca Cola reasserts its dominance in the Dairy Queen system, and we inevitably move toward single sourcing of soft drinks, it is imperative that ADQ put a great deal more emphasis on more funding for franchisees and less onerous limitations on franchisee rights.

SERVING DR. PEPPER

Both agreements allow you to serve Dr. Pepper. Dr. Pepper is contributing 20% toward the cost of menu boards to those stores that sign the Dr. Pepper contract. Dr. Pepper also offers the following cash allowances:

1. 70 cents/gallon off invoice (currently Dr. Pepper is approximately 90 cents/gallon cheaper than Mr. Pibb).
2. \$1.25/gallon base support.
3. 30 cents/gallon equipment allowance.

TOTAL CASH SAVINGS \$2.25/GALLON

If you are a Coke store, Coke will charge you \$210/year if you use Dr. Pepper. If you are a Pepsi store, Pepsi will deduct 20 cents/gallon from the 70 cents promised. More than likely, in either case, your Dr. Pepper funding will more than offset any allowances taken away by Coke or Pepsi.

Determining the brand that your customers want (not the dollar allowances) should be the deciding factor in your choice of Dr. Pepper over Mr. Pibb or Wild Cherry Pepsi.

WHAT TO DO NEXT

1. Review your current Pepsi contract. Note the expiration date. Also, note the termination and/or expiration clauses.
2. Call Coke 1-800-531-2238, ext. 3295 East, ext. 3888 South, ext. 3745 Central, ext. 1199 West, to discuss switching to Coke.
3. Make sure you have a commitment from Coke to cover any charges that Pepsi might levy upon termination.
4. **DON'T SIGN ANY CONTRACTS UNTIL YOU ARE SURE YOU UNDERSTAND ALL THE DETAILS.**

ADQ has painted itself into a corner. Previously you were told that the only way you could get a new menu board was to sign a new contract. After many franchisee inquiries about purchasing a board for cash and keeping what might be a more favorable older contract, ADQ has finally decided to allow this cash purchase option. For those of you who don't have such a favorable older contract, both new contracts leave a lot to be desired, but the Pepsi contract is clearly inferior.

This entire process was designed to force you to make a quick decision. You either received a Pepsi contract and were expected to sign it by January 15th or you received a Coke contract, but you weren't mailed both giving you an opportunity to compare. Competition was removed from the equation and ADQ was hoping to keep the status quo. And to force you into these new contracts, ADQ told you that there will be no menu board support for your old menu board beyond 2007. Sign or else!

So take a look at your existing contracts. If your volume and your allowances will more than pay for the new menu board, keep your existing contract and pay cash for the new board. If your existing contract will not cover the cost of your new board, take your time to evaluate both contracts and don't rush into something just to satisfy a January 15th deadline by ADQ. **We definitely recommend, if you are an existing Pepsi customer, that you give serious thought to not signing a new Pepsi contract.**

DO NOT SIGN A CONTRACT THAT YOU THINK IS INFERIOR!