



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No.: LM242Mar15/DSC005Apr16

In the matter between:

THE MINISTER OF ECONOMIC DEVELOPMENT

First Applicant

And

THE COCA-COLA COMPANY

First Respondent

COCA-COLA CANNERS
OF SOUTHERN AFRICA (PTY) LTD

Second Respondent

COCA-COLA SHANDUKA BEVRAGES SA (PTY) LTD

Third Respondent

AMALGAMATED BEVRAGE INDUSTRIES (PTY) LTD

Fourth Respondent

APPLETISER SOUTH AFRICA (PTY) LTD

Fifth Respondent

COCA-COLA SABCO (PTY) LTD

Sixth Respondent

COCA-COLA FORTUNE (PTY) LTD

Seventh Respondent

COCA-COLA BEVRAGES AFRICA LIMITED

Eighth Respondent

In re: the large merger between:

COCA- COLA BEVRAGES AFRICA LIMITED

Acquiring Firm

And

VARIOUS COCA-COLA
BOTTLING AND RELATED OPERATIONS

Target Firm

Panel : N Manoim (Presiding Member)
Y Carrim (Tribunal Member)
I Valodia (Tribunal Member)

Heard on : 13 April 2016

Decided on : 14 April 2016

ORDER

In the application to compel discovery brought by the Applicant against the First to the Eighth Respondents of the aforementioned large merger, the Tribunal makes the following order in relation to the revised schedule dated 12 April 2016 presented at the hearing of the matter on 13 April 2016 ("the schedule"), –

1. The respondents or as the case may be the relevant respondent, must produce the following as identified by the item numbers in the schedule-
 - 1.1 In relation to item 7; all minutes and/or presentations that served before the Board of each of the respondents, relating to the rationale for the merger for the period 2011- 2013.
 - 1.2 In relation to item 8; the complete presentation discovered under item 1 of the TCCC/Coca Cola Canners/Coca Cola Shanduka Discovery.
 - 1.3 In relation to items 74-75; all minutes and/or presentations that served before the board of each of the Respondents and any correspondence between South African Breweries Ltd ("SAB Miller") to any or all of the Respondents, in relation to the restraint of trade as agreed between the parties in their shareholders agreement pursuant to the merger agreement.
 - 1.4 In relation to the items related to employment the merging parties must provide information on the following –
 - 1.4.1 The nature of the 250 positions earmarked for retrenchment;
 - 1.4.2 Detailed job descriptions, job functions and responsibilities for each of these positions or categories of positions, as well as the merged entity's plans for retrenchment of these posts and
 - 1.4.3 All documents relied upon by the Respondents/Merging Parties in order to reduce the number of likely retrenchments post-merger from 387, as initially contemplated, to 250.
2. No order to produce is made in respect of items the respondents have undertaken to produce but delivery of these items is subject to paragraph 3 below.

3. The respondents must deliver the documents and/or information contemplated in paragraph 1 of this order, together with the documents undertaken to be provided by the Respondents, within 5 business days of the date of this order.
4. Where the respondents allege that no such documents exist in relation to paragraph 1 of this order the respondents must provide an affidavit confirming such.
5. The prayers for discovery of the remaining items are dismissed.



Presiding Member
Mr N Manoim

14 April 2016

Date

Concurring: Ms Y Carrim and Prof I Valodia