



## 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 **Target Firm**  
BOTTLING AND RELATED OPERATIONS

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Panel : N Manoim (Presiding Member)  
Y Carrim (Tribunal Member)  
I Valodia (Tribunal Member)  
Heard on : 13 April 2016  
Decided on : 14 April 2016

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**ORDER**

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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 Cannery/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.

  
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**Presiding Member**  
**Mr N Manoim**

**14 April 2016**

**Date**

**Concurring: Ms Y Carrim and Prof I Valodia**