Patel sets tough terms for bottling merger to keep Appletiser SA-made

By Hilary Joffe

20 Jan 2016

Economic Development Minister Ebrahim Patel's determination to keep Appletiser produced in SA has prompted onerous conditions for a merger that would create the continent's largest bottler of soft drinks.

Coca-Cola Company president and chief operating officer James Quincey at the presentation of a new advertising campaign in Paris, France, on Tuesday.

Image credit: Reuters/Benoit Tessier

Patel's public interest conditions has meant the deal that brings together the soft-drink bottling operations of the Coca-Cola Company, SABMiller and Gutsche Family Investments has not yet been finalised.

On Tuesday Patel confirmed that he had been engaging with the parties on the issues that his department was concerned about. They include the effect of the merger on small businesses, supplier industries, employment and investment.

The Competition Act required the minister to consider public interest issues in mergers and advise the competition authorities of his views, Mr Patel said. He can also engage directly with merging parties, as he has been doing over the past year on the "fizzy drinks" deal, as he described it.

His comments followed a closed pre-hearing at the Competition Tribunal on Tuesday, ahead of public hearings the tribunal will hold later this year.

The Port-Elizabeth based merged company would have annual revenue of $2.9bn and bottle 40% of Africa's Coca-Cola beverages, with operations in 12 countries.

It would be one of the top 10 largest Coca-Cola bottling partners worldwide, and aims to accelerate growth on the continent.

The deal was announced in November 2014, but the Competition Commission only recommended that it be approved, with a string of conditions, last month. The terms include that the merging parties invest R650m to support the development of black-owned retailers, small suppliers and developing farmers.

They also have to commit to buy inputs from local suppliers.

The conditions further include requirements on employment and black economic empowerment (BEE) - and on Appletiser which is owned by SABMiller.

"Appletiser is an iconic SA brand and our talks were also about ensuring that such an iconic brand continues to be produced in SA both for the domestic and the international market," Patel said.

It is understood that one of the commission's more controversial recommendations was that retailers who are given Coca-Cola-branded fridges free of charge be allowed to stock them with products made by rivals.

Patel has the right to intervene in the Competition Tribunal hearings, should he choose to do so, but he said yesterday that he was still engaging with the merging parties to address the public interest issues.

Two trade unions - the Food and Allied Workers' Union and the National Union of Food Beverages Wine Spirits and Allied Workers - also have the right to intervene at the tribunal. However, it is not clear at this stage whether any issues they have can instead be resolved in talks with the merging parties.

A competitor, Softbev, and a group of independent drivers are seeking to intervene in the hearings. The drivers staged a protest outside the competition authorities' offices in Pretoria yesterday.

The commission said last month that the proposed merger was likely to have a negative effect on employment, but the merging parties had undertaken not to retrench employees as a result of the merger, except for 250 identified employees.

The commission was also concerned about the effect of the transaction on BEE, but the merging parties had committed to increase the BEE shareholding and to divest a certain percentage of the shareholding in Appletiser to a black-owned company or consortium.

The commission said that the consolidation of different bottlers under one entity was likely to have a negative effect on suppliers, who would be in a weaker position to negotiate sustainable prices post the merger.

However, the merging parties had undertaken to buy all tin cans, glass and plastic bottles, packaging crates and sugar from local suppliers.

Source: Business Day