COMMERCE ACT 1986: BUSINESS ACQUISITION

SECTION 66: NOTICE SEEKING CLEARANCE

Date: 18 October 2002

The Registrar
Business Acquisitions and Authorisations
Commerce Commission
PO Box 2351
WELLINGTON

COCA-COLA AMATIL (NZ) LIMITED;RIO BEVERAGES LIMITED

Pursuant to s66(1) of the Commerce Act 1986 notice is hereby given seeking **clearance** of a proposed business acquisition.

PART I: TRANSACTION DETAILS

TO BE COMPLETED BY ALL APPLICANTS

1. **What is the business acquisition for which clearance is sought?**

1.1 It is proposed that The Coca-Cola Company (**TCCC**) acquires the trademarks and intellectual property associated with the brands owned by Rio Beverages Limited (**Rio Beverages**), and that Coca-Cola Amatil (NZ) Limited (**CCA NZ**) acquires the remaining business assets necessary to operate the Rio Beverages business.

1.2 Clearance is sought for the proposed acquisition of the business assets (excluding the trademarks and intellectual property) of Rio Beverages by CCA NZ or any interconnected bodies corporate of CCA NZ.

1.3 TCCC is separately seeking clearance to acquire the trademarks and intellectual property associated with the brands owned by Rio Beverages.

1.4 TCCC and CCA NZ (together **Coca-Cola**) are "associated companies" for the purposes of the Commerce Act. They are acting jointly or in concert in seeking to acquire these assets. The acquisition of the trademarks and intellectual property, and the operating assets of Rio Beverages are interconditional.

1.5 This application is filed following a period of discussion and investigation by the Commerce Commission. Materials already supplied to the Commission are contained in two submissions, dated 23 July 2002 and 12 September 2002 respectively. These submissions are attached as Schedule 1 and 2 to this application.

The Person Giving Notice

2. **Who is the person giving this notice?**

2.1 This notice is given by CCA NZ.

2.2 Coca-Cola requests that all correspondence and notices in respect of this application be directed in the first instance to:

Bell Gully
Royal & SunAlliance Centre
48 Shortland Street
PO Box 4199
Auckland

Telephone: (09) 916-8800
Facsimile: (09) 916-8801

Attention: Phil Taylor/Belinda Bagge

phil.taylor@bellgully.com/belinda.bagge@bellgully.com

Confidentiality

3. **Do you wish to request a confidentiality order for:**

3.1 **The fact of the proposed acquisition?**

No.

3.2 **Specific information contained in or attached to the notice?**

Confidentiality is sought for all information enclosed in square brackets, including information in square brackets in the Schedules. Confidentiality is sought for all confidential information for the earlier of a period of two years from the date of this application, or until Coca-Cola advises the Commission that it may disclose this information. The information that has been deleted is commercially sensitive and valuable information, disclosure of which could result in material financial loss and prejudice to the competitive position of Coca-Cola and/or Rio Beverages. In this respect, Coca-Cola relies on section 9(2)(b) of the Official Information Act 1982. Confidential information is deleted in the Public Copy of this notice.

4. **Who are the participants (i.e. the parties involved)?**

4.1 The participants are CCA NZ and Rio Beverages.

4.2 The contact details for CCA NZ are as follows:

David Westall

Managing Director

Coca-Cola Amatil (NZ) Limited

Private Bag 14 916

Panmure

Auckland

Telephone: 09 570 3164

Facsimile: 09 570 3513

4.3 The contact details for Rio Beverages are as follows:

David Thexton

Executive Director

40 Springs Road

East Tamaki

Auckland

Telephone: 09 274 5299

Facsimile: 09 274 4740

5. **Who is interconnected to or associated with each participant?**

5.1 **Acquirer group/associates:**

TCCC has shareholdings in a large number of companies world-wide. Further details of the TCCC company structure are available from the TCCC website (www.coca-cola.com) or the Annual Report of TCCC. The shareholdings relevant to New Zealand are set out below.

5.1.1 If the acquirer is a member of a group of interconnected bodies corporate, identify all members of the group.

TCCC has one subsidiary in New Zealand, Coca-Cola Oceania Limited.

CCA NZ is a wholly owned subsidiary of Coca-Cola Amatil Limited, an Australian listed company. TCCC, through various wholly owned subsidiaries, owns approximately 35% of Coca-Cola Amatil Limited. CCA NZ has no subsidiaries.

5.1.2 Identify all companies in which the acquirer or its interconnected bodies corporate own 10% or more of the shares.

Refer to response to 5.1.1.

5.1.3 Identify any company which owns over 10% of the shares in the acquirer or any company of which the acquirer is a subsidiary.

TCCC is listed on the New York, Frankfurt and Zurich stock exchanges. No entity owns more than 10% of the shares in TCCC.

Ultimately, CCA NZ is 35% owned by TCCC. CCA NZ is also owned as to 11.55% by Citicorp Nominees Pty Limited.

5.1.4 Identify all interconnected bodies corporate of any company identified under 5.1.3 and all companies in which it, or its interconnected bodies corporate, own over 10% of the shares.

TCCC's interests are listed above.

5.2 **Target company group/associates**

As the proposed acquisition relates to assets only and not shares, the interests of Rio Beverages and any interconnected or associated companies are not relevant to this application, and not considered further.

6. **Does any participant, or any interconnected body corporate thereof, already have a beneficial interest in, or is it beneficially entitled to, any shares or other pecuniary interest in another participant?**

No.

7. **Identify any links, formal or informal, between any participant/s including interconnected bodies corporate and other persons identified at paragraph 5 and its/their existing competitors in each market.**

7.1 TCCC, through various wholly owned subsidiaries, owns approximately 35% of CCA NZ's parent company, Coca-Cola Amatil Limited.

7.2 Rio Beverages manufactures housebrand non-alcoholic beverages for supermarkets in New Zealand.

8. **Do any directors of the 'acquirer' also hold directorships in any other companies which are involved in the markets in which the target company/business operates?**

No.

9. **What are the business activities of each participant?**

9.1 The business activities of the participants are:

- TCCC – ownership of trademarks used to identify non-alcoholic beverages and manufacture and sale of concentrates and beverage bases from which non-alcoholic beverages are made;
- CCA NZ – manufacture, distribution and sales of non-alcoholic beverages; and
- Rio Beverages - ownership of trademarks used to identify non-alcoholic beverages; and the manufacture, distribution and sales of non-alcoholic beverages.

9.2 For further detail see paragraphs 4.1-4.3 of Schedule 1.

10. **What are the reasons for the proposal and the intentions in respect of the acquired or merged business?**

10.1 Rio Beverages has determined to exit the non-alcoholic beverages market.

10.2 Coca-Cola wishes to expand its product range.

PART II: IDENTIFICATION OF MARKETS AFFECTED

Horizontal Aggregation

11. **Are there any markets in which there would be an aggregation of business activities as a result of the proposed acquisition?**

Product Dimension

The relevant market is considered to be a commercial non-alcoholic beverages market. The support for this view is set out in paragraph 5.1 – 5.13 of Schedule 1.

Coca-Cola also has examined the impact of the transactions in respect of the relevant narrow beverage categories in which it and Rio Beverages participate. The relevant categories in respect of which aggregation occurs are:

(a) bottled water;

(b) energy drinks; and

(c) fruit juice/juice drinks.

Functional Dimension

CCA NZ is a bottler, TCCC is a brand owner, and Rio Beverages is both bottler and brand owner.

An adequate assessment of the competition implications of the proposed acquisition can be carried out with reference to the wholesale (rather than retail) supply market, on the basis that if the acquisition were to result in an aggregation of market power it is likely to be expressed at the wholesale level. The Commission has previously accepted this approach.[1]

Geographic Extent

The geographic extent of the relevant categories is considered to be national, on the basis that the beverages sold by the parties are marketed nationally, the parties compete on a national basis, and major resellers of beverage brands such as the supermarket chains and petrol companies also operate on a national basis.

Differentiated Product Markets

12. **Please indicate whether the products in each market identified in question 11 are standardised (buyers make their purchases largely on the basis of price) or differentiated (buyers make their purchases largely on the basis of product characteristics as well as price).**

Beverage products are highly differentiated for the reasons set out in schedules 1 and 2.

13. **For differentiated product markets:**

Refer to paragraph 9.8 of Schedule 1.

Vertical Integration

14. **Will the proposal result in vertical integration between firms involved at different functional levels?**

The acquisition will not result in any increased vertical integration. All manufacturing participants in the industry are vertically integrated.

15. **In respect of each market identified in questions 11 and/or 14 identify briefly any acquisition or proposed acquisition which either participant has undertaken in the last three years:**

15.1 TCCC acquired the intellectual property of Cadbury Schweppes plc in 1999.

15.2 Coca-Cola is not aware of any other relevant acquisitions.

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[1] Refer Commerce Commission analysis of the acquisition by TCCC of the international brands of Cadbury Schweppes Plc in 1999.

PLEASE ANSWER QUESTIONS 16 - 26 BELOW IN RESPECT OF EACH MARKET IDENTIFIED IN QUESTIONS 11 AND 14

PART III: CONSTRAINTS ON MARKET POWER BY EXISTING COMPETITION

Existing Competitors

16. **In the market or markets, who are the suppliers of competing products, including imports?**

Energy Drink Category

16.1 As shown by Table 1, post-acquisition aggregation in respect of the energy drink category is minor and falls within the Commission's safe harbour guidelines. In this category, the brands to be combined as a result of the acquisition are TCCC's *Lift Plus* and *Burn* brands; and Rio Beverages' *Ikon* brand.

Table 1: Energy Drinks: Estimated Volume (000's litres) and % Category Share

	Volume	%
Coca-Cola	[ ]	[ ]
Rio Beverages	[ ]	[ ]
Combined Entity	**[ ]**	**[ ]**
Frucor Beverages	[ ]	[ ]
Other	[ ]	[ ]
Total	**[ ]**	**100**

Full year 2001 (Rio Beverages' figures based on financial year to September 01).

16.2 The largest competitor in the energy drink category is Frucor Beverages. In 2001, Frucor Beverages was acquired by The Danone Group (**Danone**), a significant food and beverage player worldwide. In its press release announcing the takeover, Danone stated its plans to accelerate the development of Frucor Beverages, particularly in the high growth energy drink segment. Frucor Beverages prides itself in its innovation in brand design, new product development, research and development and flexibility in manufacturing. It is a strong and vigorous competitor in the energy drink category with the *V* brand, and a market share of approximately [ ].

16.3 Other competitors in this category include:

(a) Red Bull GMBH Austria (*Red Bull)* through its distributor Red Bull NZ Limited;

(b) Power Drinks Limited (Top Secret; Black Stallion; and Bull Rush);

(c) Independent Liquor NZ Limited (*Liquid B; Proton* and *Frenzy)*;

(d) Smart Drinks NZ Limited (*Smart Drinks*);

(e) Musashi Pty Limited (*Musashi*);

(f) EAS International of America and its New Zealand distributor First Nutrition with their energy products (*Piranha)*;

(g) Rawson Gem Pty Limited (*Red Eye)*;

(h) Z Company Limited (*Z)*; and

(i) Dark Dog Trading GMBH, Austria through its New Zealand distributor Dark Dog (NZ) Ltd (*Dark Dog)*.

16.4 For further detail refer Schedule 2.

Fruit Juice & Juice Drinks Category

16.5 TCCC owns the *Pacific Orchard* and *Fruitopia* brands; CCA owns the *Fruitbox* brand; and Rio Beverages owns the *Keri*, *Rio Gold*, *Thextons*, *Rio Splice*, *Robinson Brothers*, and *Frucci* brands. However, Table 2 shows that aggregation in respect of the fruit juice and juice drinks category is de minimus, as Coca-Cola's existing ready-to-drink fruit juice and juice drink interests are only minor.

Table 2: Fruit Juice/Juice Drinks: Estimated Volume (000's litres) and % Category Share

	Volume	%
Coca-Cola	[ ]	[ ]
Rio Beverages	[ ]	[ ]
Combined Entity	**[ ]**	**[ ]**
Frucor Beverages	[ ]	[ ]
Other	[ ]	[ ]
House Brands	[ ]	[ ]
TOTAL	**[ ]**	**100***

*% estimates do not add to 100% due to rounding.

Full year 2001 (Rio Beverages' figures based on financial year to September 01).

Note: House Brands manufactured and packed by Rio Beverages are not included in the combined entity's volume share because the *Pams, First Choice*, *Presto* and *Signature Range* labels are private label supermarket brands that compete directly with the Rio Beverages and Coca-Cola brands and those supermarkets could easily move the manufacture of those products to an alternative manufacturer. The supermarkets require suppliers to submit supply price quotes for the house brand products on an annual basis. Rio Beverages does not produce the *Basics, Budget*, or *No Frills* labels. *This table is an update of the equivalent table in Schedule 1. See Bell Gully letter dated 13 August 2002 attached as Schedule 3.*

16.6 The fruit juice/juice drink category is extremely competitive with a number of participants of varying sizes and targeting different consumer preferences. There are some niche players, for example Phoenix Organic Limited which manufactures organic juices but most deliver to a broad consumer need.

16.7 Again, Frucor Beverages is a strong and vigorous competitor with the *Fresh Up*, *Just Juice*, *Citrus Tree*, *Dew Drop*, *McCoy*, *Stefans*, *Twist*, *Berry Patch*, and *Kokomo* brands. It has a post-acquisition market share of approximately [ ].

16.8 Other competitors in this category include:

(a) Smith Kline Beecham (NZ) Limited (*Ribena*) which has recently merged with Glaxo Wellcome;

(b) Arano Limited (*Arano*);

(c) Phoenix Organic Limited (*Phoenix*);

(d) The Pinto Fruit Juice Company Limited (*Pinto*, *Vital 2*);

(e) James Crisp Limited (*Ocean Spray*);

(f) Juice Express Limited (*Viva Juice for Life*);

(g) Charlies Trading Company Limited (*Charlies*);

(h) Campbells Cuisine Company Limited (*Campbells*);

(i) Brownlie Brothers Limited (*Simply Squeezed)*;

(j) Golden Circle Limited (*Golden Circle)*; and

(k) Sunraysia Natural Beverage Co. Pty Limited (*Sunraysia*).

16.9 For further detail refer Schedule 2.

Bottled Water Category

16.10 Although TCCC does not have a bottled water product, CCA NZ sells the *Pump* and *Deep Spring* brands in New Zealand. Rio Beverages owns and sells the *Kiwi Blue* brand. The post-acquisition combined share is approximately [ ].

Table 3: Bottled Water: Estimated Volume (000's litres) and % Category Share

	Volume	%
Coca-Cola	[ ]	[ ]
Rio Beverages	[ ]	[ ]
Combined Entity	**[ ]**	**[ ]**
Frucor Beverages	[ ]	[ ]
Private labels (Rio)	[ ]	[ ]
Others	[ ]	[ ]
Total	**[ ]**	**100***

*% estimates do not add up to 100% due to rounding.

Full year 2001 (Rio Beverages' figures based on financial year to September 01).

Note: House Brands manufactured and packed by Rio Beverages are not included in the combined entity's volume share because the *Signature Range* label is a private label supermarket brand that competes directly with the Rio Beverages and Coca-Cola brands and the supermarket could easily move the manufacture of those products to an alternative manufacturer. The supermarket requires suppliers to submit supply price quotes for the house brand products on an annual basis. Rio Beverages does not produce the *Basics, Budget*, or *No Frills* labels. *This table is an update of the equivalent table in Schedule 1. See Bell Gully letter dated 13 August 2002 attached as Schedule 3.*

16.11 Frucor Beverages has rights to the *H2Go* (Pepsi Cola International), *NZ Natural* and *Wet Rock* bottled water brands, and will have a post-acquisition market share of approximately [ ] in the bottled water category. Frucor Beverages also owns the *Mizone* brand, which it claims establishes a unique category of beverages – "Sports Water". [ ]. The success of the *Mizone* product highlights the continuously evolving nature of the industry and the ease of entry for new beverage products. Frucor Beverages' new parent company, Danone owns the *Evian* brand which it is likely to wish to expand now that it has a presence in New Zealand.

16.12 There are a number of other participants, many with international backing which will allow them to expand significantly in the New Zealand market and many willing to provide contract packing facilities to new entrants. Participants include:

(a) Montana Wines Limited (*Evian*)

(b) Kiwi Bottlers 96 Limited (*Zest*);

(c) Alpine Gold (Central Otago) Limited (*Alpine Pure*, *Mount Pisa*, and *Aqua Max*);

(d) Nestle New Zealand Limited, distributes the global brands, *Perrier* and *Vittel* – both large and important brands offshore that are likely to be supported for growth in New Zealand;

(e) Phoenix Organic Limited (*Phoenix* Mineral Waters*)*;

(f) Fernland Mineral Water (*Fernland* water);

(g) Cantarella Bros Pty Limited (St Vittoria Mineral Water and Aurora Mineral Water) ;

(h) Eternal Marketing Limited (*Eternal Springwater*);

(i) Foodstuffs Group (private label);

(j) Progressive Enterprises Limited (private label);

(k) Woolworths Group (private label);

(l) Waiwera Water (Waiwera Seltzer and Infinity);

(m) Waimak Mineral Water Limited (*Waimak* Mineral Water*)*;

(n) Delmaine Trading Company Limited (*Acqua Panna)*;

(o) New Zealand Distilled Water Ltd (*Pure Dew*);

(p) New Zealand Quality Waters (*Cool Blue*); and

(q) The Pure Water Co. Ltd (*Pure Magic*).

16.13 Still bottled water is also constrained by carbonated bottled water products, such as *San Pellegrino Spa*, a Delmaine Trading Company Limited imported product that is distributed by Montana Wines Limited, and *CH'I* herbal mineral water manufactured locally by Ch'i International Limited.

16.14 Housebrands have grown particularly strong in the bottled water category in grocery due to the increasingly commoditised nature of the category. Currently, house brands is the biggest single product in the take home water segment (over 1.25 litre) and holds [

[ ] (ACNielson data for 52 weeks ended 24 February 2002).

16.15 Added to this is the constraint from freely available tap water, with an increasing number of people using home filtered water, i.e. bottled quality water from their tap. Bulk water companies are significant participants in the category and include:

(a) Just Water (NZ) Limited;

(b) The Water Filter Company Limited;

(c) Microclear;

(d) Wellington Water Filters;

(e) Simply Water Limited; and

(f) Cool Water Company Limited.

16.16 For further detail refer Schedule 2.

Conditions of Expansion

17. **The following listing gives different types of market conditions that may effect the ability of existing firms to expand:**

Coca-Cola does not consider there are any barriers to entry or expansion. A detailed discussion supporting this view is set out in paragraphs 7.1 – 7.17 of Schedule 1 and further expanded upon in Schedule 2.

18. **Please name any business which already supplies the market – including overseas firms - which you consider could increase supply of the product concerned in the geographic market by any of the following means:**

Refer response to question 17.

19. **Of the conditions of expansion listed above, which do you consider would influence the business decision in each case to increase supply?**

There are no conditions that would influence the business decision to increase supply.

20. **How long would you expect it to take for supply to increase in each case?**

Expansion can be achieved without delay.

21. **In your opinion, to what extent would the possible competitive response of existing suppliers constrain the merged entity?**

Coca-Cola considers that, post-acquisition, it will remain constrained by existing competition and the potential for new entry and expansion. The large numbers of participants in the relevant market or in each relevant category supports this view.

22. **Looked at overall, and bearing in mind the increase in market concentration that would be brought about by the acquisition, to what extent do you consider that the merged entity would be constrained in its actions by the conduct of existing competitors in the markets affected?**

Refer to responses to question 17 and 21 and to the discussion in Schedules 1 and 2.

Co-ordinated Market Power

23. **Identify the various characteristics of the market that, post-acquisition, you consider would either facilitate or impede co-ordination effects.**

23.1 The following assessment is expressed in terms of commercial non-alcoholic beverages generally, as opposed to the specific beverage categories affected by the proposed acquisition, due to the supply-side similarities in respect of all beverage categories. Where a beverage category has special features, express reference is made to those features.

23.2 The market structure and behavioural features identified by the Commission as conducive to collusive behaviour are assessed in respect of the proposed acquisition below.

Testing the Potential for "Collusion"	
Factors conducive to collusion	**Presence of factors in the market**
High seller concentration	Yes – but low barriers to entry and ease of imports
Undifferentiated product	No
New entry slow	No
Lack of fringe competitors	No

Price inelastic demand curve	No
Industry's poor competition record	No
Presence of excess capacity	Not relevant - an industry wide phenomenon
Presence of industry associations/fora	Yes – but limited influence

High seller concentration

23.3 Category shares in respect of each of the relevant beverages reveal a small number of players together holding a relatively large share of each category, which would qualify as 'concentrated markets' for the purposes of the Commerce Act. However, aggregation in respect of two of the categories disclosed above - energy drinks and fruit juice/juice drinks - is only minor.

23.4 As noted by the Australian Competition and Consumer Commission in the *Wattyl/Courtaulds/Taubmans/Pinchin Johnson* application for authorisation:

> "…there is not a nexus between concentration and competition … the likelihood of co-operative behaviour depends crucially on other structural features …(particularly) … absence of a strong international competition and if barriers are high."

23.5 In its decisions under the new substantial lessening of competition threshold test, the Commission has recognised that market shares are insufficient in themselves to establish whether competition in a market will be lessened, and that seller concentration is only one factor that has to be assessed in determining the impact of a business acquisition on competition.[2]

Undifferentiated product

23.6 Within each beverage category, significant efforts are made through branding and marketing to differentiate a company's products from its competitors. The high level of differentiation in the beverage industry and the constant drive for new products/categories (e.g. lifestyle and energy drink categories) makes co-ordination extremely complex and difficult.

Speed of new entry

23.7 As noted at paragraphs 7.1 - 7.17, barriers to entry in the non-alcoholic beverage industry are low. New entry can be executed swiftly, and meets the Commission's *let* test (*likely,* sufficient in *extent and timely*). This is evidenced by the recent innovation and growth in the lifestyle and energy drink categories and by the ease with which international participants could enter the New Zealand market.

Lack of fringe competitors

23.8 Fringe competitors, especially participants targeting niche consumer needs are present in each beverage category and exercise significant constraint. Barriers to expansion are low.

Price inelastic demand curve

23.9 The non-alcoholic commercial beverages demand curve is elastic. As noted, consumers are extremely price sensitive and react quickly to price discrepancies.

Industry's competition record

23.10 Competition in the beverage industry is extremely vigorous and there is no evidence of anti-competitive conduct between participants.

Presence of excess capacity

23.11 Excess capacity exists in each commercial non-alcoholic beverage category. This is the result of participants anticipating growth in the industry and investing to capture that growth. It is not the result of output restrictions caused by co-ordination. Therefore the "excess capacity" concern as seen in other industries is not a concern here. Output is determined by the interaction of supply and demand.

Presence of industry associations

23.12 The beverage industry is generally transparent, and although there are regular meetings to discuss issues affecting the overall industry, such as food laws, environmental issues and Government regulations generally, these meetings are run closely to an agenda and

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[2] See for example the Commission's analysis in Decision 444: *Mico Wakefield Limited; Mastertrade Limited*, 6 December 2001.

there is limited ability through those associations for anti-competitive/pricing communications between market participants.

24. **Identify the various characteristics of the market that, post-acquisition, you consider would facilitate or impede the monitoring and enforcement of co-ordinated behaviour by market participants.**

24.1 The following assessment is expressed in terms of commercial non-alcoholic beverages generally, as opposed to the specific beverage categories affected by the proposed acquisition, due to the supply-side similarities in respect of all beverage categories. Where a beverage category has special features, express reference is made to those features.

Testing the Potential for "Discipline"	
Factors conducive to discipline	**Presence of factors in market**
High seller concentration	Yes - but low barriers to entry and ease of imports
Small and frequent sales	No – except in respect of smaller outlets with storage constraints
Absence of vertical integration	No
Slow growing demand	No
Firms have similar costs	No
Price transparency	No

Nature of sales

24.2 Acquirers tend to purchase on a regular rolling basis. The volumes involved depend on whether it is a small route trade retailer or a major supermarket chain. The supermarkets tend to acquire in bulk and due to the competitive nature of the market and the countervailing power of retailers, discounts are often sought.

Absence of vertical integration

24.3 It is more difficult for a market to “discipline” firms who are party to a collusive arrangement when those participating in collusive behaviour are vertically integrated.

The beverage industry is vertically integrated in that production and sales are commonly conducted by the one entity and thus outside discipline would be difficult.

Slow growing demand

24.4 The non-alcoholic beverages industry is dynamic and there is increasing demand for new and different beverages. For example, products in the bottled water, energy drink and lifestyle beverage categories are exhibiting high levels of growth and innovation.

Firms have similar costs

24.5 Cost structures vary among industry participants. This is due to the creation of niche products and product differentiation which cause different input costs depending on the raw materials, packaging and labelling used.

Price Transparency

24.6 The relevant functional level is supply to retailers. Wholesale prices to these retailers are not transparent and are not freely available to competitors.

25. **Indicate whether the markets identified in paragraph 9 above show any evidence of price co-ordination, price matching or price following by market participants.**

The relevant market does not show any such evidence.

26. **Please state the reasons why, in your opinion, the transaction will not increase the risk of co-ordinated behaviour in the relevant market(s)**

Refer to response to questions 24 and 25 above.

Coca-Cola refers the Commission to the additional material supplied in earlier submissions and attached as Schedule 1, 2 and 3.

THIS NOTICE is given by

*[individual/s and company]

*[The company/I/We] hereby confirm/s that:

- * all information specified by the Commission has been supplied;
- * all information known to the applicant/s which is relevant to the consideration of this application/notice has been supplied;
- * all information supplied is correct as at the date of this application/notice.

*[The company/I/We] undertake/s to advise the Commission immediately of any material change in circumstances relating to the application/notice.

Dated this day of 200 .

*Signed by [name of applicant company]:

____

Director/Chief Executive Officer/Other - specify

*[I am a director/officer of the company and am duly authorised to make this application/notice.]

or

*[The common seal of - name of applicant company/organisation - was affixed hereto in the presence of:

____

Director/Authorised signatory]