COMMISSION

COMMISSION DECISION

of 22 June 2005

relating to a proceeding pursuant to Article 82 of the EC Treaty and Article 54 of the EEA Agreement

(Case COMP/A.39.116/B2 — Coca-Cola)

(notified under document number C(2005) 1829)

(Only the English text is authentic)

(Text with EEA relevance)

(2005/670/EC)

(1) This decision adopted pursuant to Article 9(1) of Council Regulation (EC) No 1/2003 [1] is addressed to the Coca-Cola Company (TCCC) and its three major bottlers, Bottling Holdings (Luxembourg) SARL, Coca-Cola Erfrischungsgetränke AG and Coca-Cola Hellenic Bottling Company SA (hereafter: the Parties). The subject matter of the procedure relates to the conduct of TCCC and its bottlers in the supply of carbonated soft drinks in both the distribution channel for consumption at home and the channel for consumption on premise in the EC Member States, Iceland and Norway. In a preliminary assessment, the Commission expressed concerns under Article 82 of the EC Treaty and Article 54 of the EEA Agreement in relation to practices consisting in exclusivity-related requirements, growth and target rebates and leveraging of market power between various product categories.

(2) The Commission considers that the commitments offered following the preliminary assessment and the observations submitted by interested third parties are sufficient to address the identified competition concerns in channels, where the Parties reach defined market share thresholds. In particular, the Parties will refrain from concluding exclusivity agreements save in specific circumstances and from granting growth and target rebates. In the preliminary assessment these practices were considered to make it more difficult for third parties to compete on the merits. By providing that requirements concerning assortment and shelf-space must be defined separately for certain categories of brands, the commitments address the concern identified in the preliminary assessment that strong brands could be leveraged in favour of weaker brands. In regard to financing and technical equipment, the commitments reduce contract duration, give customers the option of repayment and termination without penalties and free up a certain share of cooler space, thus addressing the concerns that the pre-existing arrangements would unduly bind customers and lead to outlet exclusivity.

(3) The decision finds that, in view of the commitments, there are no longer grounds for action by the Commission. The decision shall be binding until 31 December 2010.

(4) The Advisory Committee on Restrictive Practices and Dominant Positions issued a favourable opinion on 20 May 2005.

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[1] OJ L 1, 4.1.2003, p. 1. Regulation as amended by Regulation (EC) No 411/2004 (OJ L 68, 6.3.2004, p. 1).