

11TH NOVEMBER, 2021

CCC -CP -NOTICE 5 of 2021

NOTICE TO THE PUBLIC ON COMPULSORY PRODUCT RECALL OF APPLETISER

The COMESA Competition Commission (the “Commission”) became aware through its market observatory that Coca-Cola South Africa (CCSA) on or around 23rd September, 2021 initiated a voluntary recall of some batches of Appletiser from the market in South Africa as the products were found to contain mycotoxin (‘patulin’) above the permitted limit of 50 parts per billion (50ppb) for foodstuff¹. According to the World Health Organisation, patulin is a form of mycotoxin. Consumption of high levels of patulin may cause nausea, gastrointestinal disturbances and vomiting.

The recall notice by CCSA indicates that the products in question can be identified by looking at the Best Before date which is stamped at the bottom or top of the products. The specific batches of the recalled Appletiser have the following date codes:

Volume and type of Packaging	Date Code
1250ml PET	BB 07NOV21
750 Non-Returnable Glass	BB 30MAY22
275ml Non-Returnable Glass	BB 10JUN22
330ml CAN	BB 18MAY22
330ml CAN	BB 19MAY22
330ml CAN	BB 23MAY22

The pictorial identification of the products is as follows:



¹ <https://www.coca-cola.co.za/stories-and-press/appletiser-voluntary-product-recall-statement->

The Commission established that whereas, Appletiser is imported and distributed into the Common Market for Eastern and Southern Africa (Common Market), no such recall, was made or announced in the Common Market.

In view of the above, the Commission on 12th October 2021 requested CCSA to: **(i)** recall the affected products from the Common Market if they had been supplied therein; **(ii)** issue a notice to the public indicating its distributors and related dealers in the Common Market to enable consumers identify where to return products; **(iii)** inform the public of any undertaking to replace the products or refund the price of the products; and **(iv)** desist from exporting the same products to the Common Market until such a time when the defect is corrected and the general public is informed accordingly.

On 27th October 2021, the Commission sent a reminder letter to CCSA to comply with the above by 1st November 2021. However, the Commission did not receive any response from CCSA on the above.

Considering that the recalled products are unsafe and CCSA has not taken steps to recall them from the Common Market, the Commission is hereby invoking Article 33 (2) of the COMESA Competition Regulations to issue a compulsory product recall notice to CCSA. In this regard, CCSA is required to:

- (a) Within 10 days, disclose to the general public in the countries where the affected Appletiser was distributed in the Common Market the following:
 - i. the nature of a defect in, or a dangerous characteristic of, the goods identified in the notice;
 - ii. the circumstances in which the use of the goods is dangerous;
 - iii. procedures for disposing of the goods specified in the notice;
 - iv. Measures undertaken by CCSA to do whichever of the following is appropriate:
 - a. replace the goods;
 - b. refund to a person to whom the products were supplied (whether by CCSA or by another person) the price of the goods within the 10 days.
- (b) desist from exporting the same products to the Common Market until such a time when the defect is corrected and the general public is informed accordingly.

The recalled goods are considered unsafe and the supply of such goods to the consumers in the Common Market before the defect is corrected is a violation of Article 31 (1) of the Regulations. The Commission therefore wishes to inform CCSA, importers, traders and distributors that selling of the recalled batches to a consumer in the Common Market before the defect is corrected is a violation of the Regulations and attracts a penalty of upto 10% of the total turnover of the undertaking found in breach of the law in the Common Market.

Furthermore, the Commission wishes to request any person who purchased the products and is unable to secure a refund or a replacement within 10 days, or who after 10 days establishes that the recalled product is being sold in the Common Market, to report the matter to the Commission on +265 (0) 1 772466 or contact the

undersigned on mdisasa@comesa.int; or Mr. Steven Kamukama Manager Consumer Welfare & Advocacy Division on skamukama@comesa.int .

Affected persons may also contact their national consumer institutions or any other body with the mandate on consumer protection in their countries.



Meti Disasa
Registrar

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