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Portfolio Committee on Justice and
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Date Wednesday, 07 October 2009
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Honourable Committee Members,

Comments on The Protection of Private Information Bill 9 of 2009

We represent The South African Breweries Limited in this process and have been asked by our client to make oral representations to the Committee on 14 October 2009.

The South African Breweries Limited ("SAB") is a wholly-owned subsidiary of SABMiller plc, and holds the following shares of, among a number of companies, the following:

- SAB Hops Farms South Africa (100%)
- The SA Breweries Maltings South Africa (100%)
- Coleus Packaging (60%)
- Coca-Cola Canners South Africa (approx. 33%)
- Castle Brewing Namibia (100%)

In addition to this, ABI is the soft drinks division of SAB.

As a leading beer and soft drink supplier in South Africa, SAB does in its ordinary business dealings collect information of suppliers. This information is used for business process management and it is with this in mind that we make the following comments on behalf of SAB in order to assist the Honourable Committee members in crafting the most practical Bill in this regard. However, from the outset, we do wish to make it clear that SAB respects and supports the protection of private information.

Comments on the Protection of Private Information Bill

Our first comment relates to the definition of “personal information”, in Section 1 of the Bill.

1. The definition includes juristic persons, the inclusion of which can have unintended consequences on companies such as SAB which collect, hold, process, and share across the SAB group of companies, information on suppliers.
2. In particular, in respect of juristic persons who are suppliers to SAB it is necessary for sound business processes to collect, process, and share across the SAB group contact information and financial information of such juristic persons, as well as any in-house opinions on quality and service levels as well as information on non-conformances with specifications, legislation, and the like. This could be made very difficult, if not impossible, in terms of the definition of “personal information” subsections (b), (c), and (e).
3. In addition, the inclusion of juristic persons could impose a new technical barrier to trade and would hinder cross-border trade as SAB would not be compliant with similar laws of trading partner countries where SAB owns or controls business interests unless they apply the same level of protection to the “personal information” of juristic persons as is proposed in the Bill.

Our second comment relates to Section 103, the transitional arrangements

1. Section 103 provides for a one year window to change all of SAB’s data handling and processing systems to comply with the Act, for both new and existing data.
2. It is a very complex matter to re-write information handling manuals, software and business practices to comply with the Bill and thus the period of one year referred to in Section 103(1) should be changed to a period of 3 years. This change would avoid a large number of extension applications having to be processed by the Minister in 12 months time.

Request to make Oral Submission

As alluded to in the opening sentence of this written submission, the writer wishes to come in person to the Committee to present oral submissions on the above, and to expand thereon. Due to the short notice of the passage of this Bill and due to prior commitments, the writer respectfully requests that a slot be allocated for the submission on the second day of oral submissions i.e. **14 October 2009**, preferably mid-morning to allow for travel from Gauteng to Parliament.

As the writer has already requested a slot to present to the Committee on behalf of Massmart on the same day, it is proposed that the two sessions be combined into one slightly longer session and that the writer be given the opportunity to present the views of both companies in that time period bearing in mind that the interests of these companies do differ somewhat, Massmart being a retailer/wholesaler and SAB being a manufacturer and distributor.

We are also available to discuss the submissions and to assist the Committee in any other way, for example, with proposed alternative wording to the various Sections commented on above.

Yours faithfully

HAHN & HAHN ATTORNEYS



Janusz Luterek, Pr.Eng