

## Govt welcomes decision on Wal-Mart development fund

The Departments of Economic Development, Trade and Industry (dti) and Agriculture, Forestry and Fisheries (DAFF) have welcomed the Competition Appeal Court's decision, instructing retail giant Wal-Mart to set up a R240m supplier development fund as a condition for it acquiring South African retailer Massmart.



On Tuesday, the court ruled that the fund was necessary to make better the effects of the merger. The court also increased the amount originally determined by the Competition Tribunal by R100m.

In June 2011, the Competition Tribunal allowed the US retail giant to merge with Massmart, with conditions resulting in Wal-Mart acquiring a 51% stake in the South African retailer. Included in the conditions was the setting up of a R100m supplier development fund.

The intervention of the three departments (as well as their on-going participation in these proceedings) was instrumental in raising crucial public interest issues that were not addressed by the commission, which initially recommended that the merger be unconditionally approved.

In a joint statement, Economic Development Minister Ebrahim Patel, Trade and Industry Minister Rob Dav and Agriculture Minister Tina Joemat-Pettersson said they were studying the decision closely.

### **Fund to protect existing micro, small and medium producers**

"We largely welcome the decision of the court to place a mandatory fund requirement on Wal-Mart and to increase the sum from R100m to effectively R240m. The judge openly praised the role of the three departments - and the trade unions - in these proceedings," said the ministers.

In terms of the agreement, Wal-Mart has to pay a maximum of R200m - which will have to be spent within five years - into a fund that it must establish within four months of the date of order.

This is over and above the approximately R40m in expenditure already made by Wal-Mart to develop suppliers in South Africa.

The fund will protect existing and potential micro, small and medium producers of South African products, who run the risk of being harmed by Wal-Mart's entry into the South African market.

The fund should also enable them to take advantage of Wal-Mart's global value-chain, and incentivise the retailer to purchase products from South African producers, over and above products that it would, in any event, purchase.

"The fund will address some of the concerns raised by the departments. And in this regard, it will devise funding projects aimed at minimising the risk posed to South African suppliers by the merger," the three

ministers said.

Although the merged entity will administer the fund, the Appeal Court recognised the need for an advisory board to help it fulfil its objectives. The board will comprise two representatives of the merged firm, as well as one representative each of government, the trade union SACCAWU, and the South African Small and Medium Enterprise Forum.

As a result, both the Competition Tribunal and the Competition Appeal Court recognised the need to protect local suppliers and jobs by imposing adequate and effective conditions.

"The three departments will be studying the decision with their legal representatives to check whether it will meet the test of saving jobs and industrial capacity in South Africa, and may issue a further statement in due course."

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