

Animal Law Reform South Africa Outreach

From: Animal Law Reform South Africa Outreach
Sent: Monday, 29 July 2024 16:02
To: BKSA Legal
Cc: [REDACTED]
Subject: RE: [BKSA Data]RE: ALRSA_Burger_King_PAIA_Request_22_11_2023

Good day

We refer to your email dated 10 July 2024.

We appreciate your willingness to discuss this matter further.

In the hopes of saving time and dispensing with the need for a meeting, we set out below why the records furnished by Burger King do not comply with the requirements set out in s 55 of the Promotion of Access to Information Act (PAIA).

The specific requirements of s 55 are as follows:

1. The affidavit must be made by the head of the private body.
2. It must state that the record in question does not exist or cannot be found despite all reasonable steps taken to find it.
3. It must detail all steps taken to find the record or determine its existence.
4. It must include all communications with every person who conducted the search.
5. It must state whether the record in question is believed to be in possession of someone else, and if so, provide their full details.

We have identified several areas where the provided affidavits fall short of these requirements:

1. Mr. Koekemoer's affidavit mentions that records marked as "not applicable" either fall under Chapter 4 of PAIA or do not exist/are not in BK's possession. However, section 55 requires a detailed account of steps taken to find records and confirmation of their non-existence. The affidavits you provided do not meet these requirements.
2. Our initial request was sent to Restaurant Brands International Inc. (RBI), the Master Franchisor, and its associated company, Burger King South Africa (Pty) Ltd. The affidavits do not adequately address this scope.
3. Furthermore, your refusal to provide information has not been sufficiently justified. For example, you refused to provide access to information about the "Good Policies" mandated by the Master Franchisor, citing protection of commercial/confidential information, which is concerning. Given that these policies relate to animal welfare and sourcing, we believe there is a strong public interest in disclosure that may outweigh any alleged commercial confidentiality.
4. Merely citing a ground for refusal is not sufficient to satisfy your obligations under PAIA, as established by our courts.

While we acknowledge your efforts to obtain third-party consent, we require more information on the specific grounds for refusal and how these align with PAIA's provisions.

If you would still like to address these specific points by way of a meeting, please let us know.

Should you have any questions or require further clarification, please do not hesitate to contact us.

Kind regards

Outreach: External Liaison
Animal Law Reform South Africa
outreach@animallawreform.org



ANIMAL LAW REF

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From: BKSA Legal [REDACTED]

Sent: Wednesday, July 10, 2024 7:33 AM

To: [REDACTED]

Subject: [BKSA Data]RE: ALRSA_Burger_King_PAIA_Request_22_11_2023

BKSA Data

"Without Prejudice"

Dear [REDACTED]

Trust that you are well.

We acknowledge receipt of the below email, the contents of which are duly noted.

Unfortunately, we disagree that the affidavits are non-compliant with the requirements of Section 55 of PAIA. We are, however, amenable to a Microsoft Teams meeting should you wish to discuss this matter further. Kindly provide us with 3 available dates and times, and we will confirm the meeting.

Thank you.

Kind regards,



[REDACTED]

[REDACTED]

[REDACTED]

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From: [REDACTED]

Sent: Wednesday, July 3, 2024 2:04 PM

[REDACTED]

Subject: RE: ALRSA_Burger_King_PAIA_Request_22_11_2023

Good day

We acknowledge receipt of your email dated 10 June 2024. We appreciate your efforts to comply with our PAIA request.

Kindly note that the inclusion of the phrase “Without Prejudice” in your correspondence does not render the correspondence “Without Prejudice” in substance.

We thank you for the affidavits furnished in respect of documents that you allege are not in the possession of Burger King. These affidavits however fail to meet the requirements laid out in s55 of PAIA.

We further note that you have refused to provide access to several of the records requested. We do not agree with the reasons for refusal and reserve our rights to pursue further action against Burger King.

In our forthcoming public report, Burger King’s rating will be informed by your partial disclosure.

Kind regards

[REDACTED]

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From: [REDACTED]

Sent: Monday, June 10, 2024 3:08 PM

To: [REDACTED]

Subject: RE: ALRSA_Burger_King_PAIA_Request_22_11_2023

Importance: High

“Without Prejudice”

Dear all,

The below email from the Animal Law Reform South Africa (“ALRSA”) dated 4 June 2024 has reference (“Email”).

1. We do not intend to address all the allegations in the Email, and our reservations to do so should not under any circumstances be deemed as admissions. We reserve our rights to respond to any and/or all allegations at a later stage or the appropriate forum.
2. We expressly disagree with the feedback in the Email. We have at all times acted in good faith, collaborated with the ALRSA, and provided the available records in line with the provisions of the Promotion of Access to Information Act, 2000, as amended (“PAIA”).
3. In addition, we were required to obtain consent from third parties in line with PAIA, which we duly complied with, and provided the ALRSA with the third party’s response. Contrary to the ALRSA’s Email, the third party’s grounds for refusing access to the records are permitted grounds in terms of PAIA.
4. Kindly find attached the supporting affidavits and email correspondence as requested.

We trust that the above is in order.

Kind regards,



Group Legal Department

[REDACTED]

[REDACTED]

[REDACTED]

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From: [REDACTED]

Sent: Tuesday, June 4, 2024 3:34 PM

To: [REDACTED]

Subject: RE: [BKSA Data]RE: ALRSA_Burger_King_PAIA_Request_22_11_2023

Dear Information Officer

Thank you for your response to our recent email correspondence.

We do not agree with your characterisation of the communications between us as “without prejudice”. There is no dispute between Burger King and Animal Law Reform South Africa. Rather, Animal Law Reform South Africa is exercising its constitutionally protected rights to access to information in the public interest. In accordance with its legal obligations, Burger King has furnished a response. It is nonsensical to refer to the correspondence exchanged between us as “without prejudice” in this context.

To the extent that you did not furnish information in response to our PAIA request, your failure to do so amounts to a refusal to provide access in breach of your obligations in terms of PAIA. Indicating “not applicable” is synonymous with a refusal. This is particularly so given that Burger King did not provide the requisite affidavit in terms of section 55 of PAIA confirming the steps taken to locate the information requested, and stating under oath that the information requested does not exist.

You undertook to provide such an affidavit, but to date we have not received one. Kindly provide the affidavit by no later than **10 June 2024**.

Further, whilst we note that you claim to have sought consent from your Master Franchisor to share information requested, it is not relevant that information is purportedly “proprietary”, as this is not a lawful ground for refusal in terms of PAIA, as your Master Franchisor ought to have been informed by your Information Officer.

In respect of your refusal of requests related to third parties, you have not provided proof of efforts to engage with other third parties as required by section 71 of PAIA. Instead, you indicated “not applicable”. Such conduct amounts to a refusal to provide access.

As requested on 22 May 2024, please share the documents that we are unable to open, namely:

- [BKSA Data REQUEST FOR CONSENT ALRSA BURGER KING & RBI - Effie Oppon.msg](#); and
- [RE External BKSA Data REQUEST FOR CONSENT ALRSA BURGER KING & RBI - Effie Oppon.msg](#).

We reserve our rights to pursue further action against Burger King in the interests of transparency and corporate accountability toward animals and the environment more broadly.

In our forthcoming public report, Burger King’s rating will be informed by all correspondence with us.

Kindly acknowledge receipt of this email.

Kind regards

Outreach: External Liaison
Animal Law Reform South Africa
outreach@animallawreform.org



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From: BKSA Legal [REDACTED]

Sent: Tuesday, May 28, 2024 10:01 AM

To: [REDACTED]

Subject: [BKSA Data]RE: ALRSA_Burger_King_PAIA_Request_22_11_2023

Importance: High

BKSA Data

“Without Prejudice”

Dear all,

The below email dated 22 May 2024 (“Email”) refers.

We do not intend to address all the allegations in the Email and our reservation to do so should not under any circumstances be deemed as admission. We reserve our right(s) to respond to any and/or all of the allegations at the appropriate time, or forum.

For clarity, all communication with the Animal Law Reform South Africa (“ALRSA”) is strictly on a without prejudice basis.

Kindly note our below responses for your attention:

1. Burger King South Africa Proprietary Limited and its affiliates (“BKSA”) expressly deny that we refused to provide any information as alleged in the Email. The majority of the questionnaires addressed to BKSA were not applicable. We indicated such sections on the Google Forms provided by the ALRSA.
2. In addition, as a Master Franchisee of Burger King® Global (“Master Franchisor”), we are required contractually and by legislation to obtain consent before sharing any third-party information with the ALRSA. We addressed a letter to our Master Franchisor as a result and we received feedback that the information requested was proprietary to the Master Franchisor and as such, the information could not be shared with the ALRSA.

3. We have attached the request for consent and the Master Franchisor's response referred to in Paragraph 2 above, as requested.

We trust that the above addresses the queries from the ALRSA.

Please acknowledge receipt of this email.

Kind regards,



Group Legal Department
[Redacted]

[Redacted]

[Redacted]

[Redacted]

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From: Animal Law Reform South Africa Outreach [Redacted]

Sent: Wednesday, May 22, 2024 12:14 PM

[Redacted]

Subject: RE: ALRSA_Burger_King_PAIA_Request_22_11_2023

Dear Information Officer

We acknowledge receipt of your correspondence dated **5 February 2024** in response to our PAIA request. Thank you for considering our request and providing access to some requested records. Your efforts are appreciated.

We note that the following documents uploaded to our Google forms cannot be viewed or downloaded, namely:

- [BKSA Data REQUEST FOR CONSENT ALRSA BURGER KING & RBI - Effie Oppon.msg](#); and
- [RE External BKSA Data REQUEST FOR CONSENT ALRSA BURGER KING & RBI - Effie Oppon.msg](#).

We kindly request that you share these documents again by email.

We further note that Burger King has refused to provide access to most of the records requested. We do not agree with the reasons for refusal and reserve our rights to pursue further action against Burger King in the interests of transparency and corporate accountability toward animals and the environment more broadly.

In our forthcoming public report, Burger King's rating will reflect your partial disclosure.

Kindly acknowledge receipt of this email.

Kind regards

Outreach: External Liaison
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From: Animal Law Reform South Africa Outreach
Sent: Wednesday, March 13, 2024 3:53 PM
To: [REDACTED]
Subject: RE: ALRSA_Burger_King_PAIA_Request_22_11_2023

Good day

Thank you for your response in respect of our request. We acknowledge receipt of your correspondence and attachments in response to our PAIA request. We reserve our rights to respond to you in respect of your response in due course.

Kind regards

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Animal Law Reform South Africa
outreach@animallawreform.org



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From: [REDACTED]

Sent: Monday, February 5, 2024 5:56 PM

To: [REDACTED]

Subject: RE: ALRSA_Burger_King_PAIA_Request_22_11_2023

Importance: High

“Without Prejudice”

Good day,

The below chain of emails has reference.

Kindly refer to the attached letter for your attention, and please acknowledge receipt hereof.

Kind regards,



Group Legal Department

[REDACTED]

[REDACTED]

[REDACTED]

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From: Animal Law Reform South Africa Outreach [REDACTED]

Sent: Tuesday, January 30, 2024 10:19 AM

To: [REDACTED]

Subject: RE: ALRSA_Burger_King_PAIA_Request_22_11_2023

Dear Information Officer

This email concerns the request for access to information in terms of the Promotion of Access to Information Act 2 of 2000 (“PAIA”) delivered to Restaurant Brands International Inc. and its associated company, Burger King South

Africa (Pty) Ltd (“Burger King”) on behalf of Animal Law Reform South Africa on **22 November 2023**. In terms of our request, your response to our request was due by no later than **22 December 2023**.

We hereby notify you that your non-response to our request amounts to a refusal in terms of PAIA. Burger King will be rated accordingly in our forthcoming public report relating to corporate accountability in the egg supply chain.

You are hereby given a final opportunity to respond to our request by no later than **6 February 2024** given that we are currently preparing our public report.

Should you fail to do so, we reserve our rights to exhaust the legal remedies available to us, including but not limited to, approaching the Information Regulator to lodge a complaint in respect of Burger King and/or approach the courts.

Kindly acknowledge receipt of this email.

Kind regards

Outreach: External Liaison
Animal Law Reform South Africa
outreach@animallawreform.org



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From: Animal Law Reform South Africa Outreach
Sent: Wednesday, December 6, 2023 3:24 PM
To: [REDACTED]
Subject: RE: ALRSA_Burger_King_PAIA_Request_22_11_2023

Dear Information Officer

I trust you are well.

As per the below email, we requested access to information in terms of the Promotion of Access to Information Act (“PAIA”) from Burger King South Africa (Pty) Ltd. Within this request, we provided links to Google forms which would authorise you to submit and upload documentation related to same. Kindly note that in order to access these Google forms, you are required to sign into a Google account. If you encounter any issues with these Google forms, please feel free to reach out to us.

However, for ease of reference, a PDF of the list of documents requested is attached.

We look forward to receiving your timeous response to our request.

Kind regards

Outreach: External Liaison
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outreach@animallawreform.org



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From: Animal Law Reform South Africa Outreach
Sent: Wednesday, November 22, 2023 4:19 PM
To: [REDACTED]
Subject: ALRSA_Burger_King_PAIA_Request_22_11_2023

Dear Information Officer

I trust you are well.

By way of introduction, my name is [REDACTED] I write on behalf of Animal Law Reform South Africa.

We reach out to you to request access to information from Restaurant Brands International Inc. and its associated company, Burger King South Africa (Pty) Ltd in its role as a stakeholder in South Africa's egg supply chain. Kindly find attached a request for access to information in terms of the Promotion of Access to Information Act 2 of 2000, as well as a covering letter with more information in respect thereof.

We look forward to receiving your completed **Google forms** (see cover letter for more details), within 30 days of the date hereof (i.e., by no later than **22 December 2023**).

Kindly acknowledge receipt hereof.

Kind regards

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Animal Law Reform South Africa
outreach@animallawreform.org



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BKSA Data



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