

17 May 2024

For attention:

Via email:

Dear Sir

Request for Access to Information in terms of the Promotion of Access to Information Act ('PAIA') – Corporate Accountability Project – Egg Supply Chain

1. We refer to your email dated 12 March 2024.
2. We hereby address each of the responses in the e-mail as follows:
 - 2.1 Ad para 2.1.5 – ALRSA first and second response:

"First, the statement made in this paragraph amounts to a refusal to provide access. The courts have confirmed that when one refuses access to a PAIA request, it is necessary to indicate and fully justify the basis upon which they refuse access to information in terms of PAIA. We hereby afford Shoprite the opportunity to do so, alternatively to revisit its stance on transparency and provide access. In light of s 70 of PAIA, the duty on Shoprite to justify its refusal to provide access is particularly important given the public interest in food safety, environmental protection, including animal welfare, and consumer protection."

And

"Secondly, it is untenable that Shoprite is not in possession of any of the requested information about its suppliers, as claimed. The information requested would emerge from supplier contracts, among other records, including those that advance Shoprite's Position Statement on Biodiversity and Responsible Sourcing. It cannot be the case that Shoprite does not conclude contracts with its egg suppliers or have any of the requested records relating to its suppliers."

- 2.1.1 Shoprite is not refusing access. Shoprite is not privy to the information sought as it is not within the purview of our knowledge based on documentation within our possession. For clarity purposes, the referred to information sought by ALRSA is listed below.

Egg Production and Supply Chain

Best practice entails a commitment to responsible sourcing and/or sustainable sourcing and/or cage-free production or supply (as applicable). Such sourcing and/or production or supply aids in the promotion, fulfillment and protection of the environmental right. We accordingly request access to records evidencing treatment of chickens impacted as a result of your company's role in the egg supply chain. These records include:

1. Records relating to the number of chickens housed/processed per annum by your company and/or each of your suppliers;
2. Records relating to the number of eggs produced per annum by your company and/or each of your suppliers;
3. Records relating to nutrition of chickens laying eggs produced by your company or its suppliers;
4. Records relating to the use of cages and type of cages used by your company or its suppliers;
5. Records relating to the stocking density of chickens laying eggs produced by your company or its suppliers;
6. Records relating to the number of chickens and chicks culled in the production process of your company or its suppliers.

2.2 Ad para 2.1.5 - ALRSA Third response:

"Thirdly, Shoprite has not complied with its obligations in terms of s 71 of PAIA in respect of the information requested. In particular, there is no indication that Shoprite has informed its suppliers of our request, nor sought their consent to disclose the information we requested. Shoprite's contention in paragraph 3 of your letter under reply that it is not obliged to do so is obstructive and contrary to the spirit, purport, and objects of the Constitution."

2.2.1 We again highlight our interpretation of Section 71 of PAIA requirements:

ALRSA requests that records be provided, showing that third parties have been approached to obtain the requested information, as per the requirements of section 71. We are of the view that to the extent that a PAIA request pertains to information of third parties, of which Shoprite is in possession of, it is incumbent on us to inform the third party of the request insofar as it relates to them, but not if the information is not in our possession or does not exist.

2.3 Ad para 2.1.5 – ALRSA Forth response:

"Fourthly, Shoprite states, we are also a member of the Consumer Goods Council of SA and a business partner of WWF South Africa." However, no records confirming the same have been provided. Kindly provide records confirming such membership."

2.3.1 Proof of membership is verifiable on the CGCSA website:

<https://www.cgcsa.co.za/who-we-are/>

2.3.2 Shoprite does not have a proof of membership certificate from the WWF South Africa. Kindly contact the organisation directly.

2.4 Ad para 2.1.6 – ALRSA Fifth response:

"We note your refusal to provide the records requested on the grounds of s 68 of PAIA. The courts have confirmed, however, that it is not sufficient to refuse access to records merely by quoting a provision in PAIA. This is because the purpose of PAIA is to promote transparency and access, and PAIA is to be interpreted in this light. It is thus necessary for you to indicate and fully justify the basis upon which you allege that s 68 is applicable. We hereby afford Shoprite the opportunity to do so, alternatively to revisit its stance on transparency and provide access. Should Shoprite persist in its refusal, the onus rests on Shoprite to show, based on real and substantial grounds that there is a strong probability that a harmful consequence will occur to it. Absent such evidence, this ground cannot lawfully be invoked."

2.4.1 For clarity purposes, Shoprite's response is stated below:

"Our Asset and Stock Register is classified as commercially sensitive information. We humbly refuse access to this information in terms of Section 68 of PAIA."

2.4.2 Our Asset and Stock Register is classified as commercially sensitive information from a competitor and third-party point of view due to it containing price sensitive information.

2.4.3 Shoprite can confirm that it holds a 38,3% market share with a market value of R1,917 billion for the sale of eggs in South Africa. (This data is accurate for the 12-month period up to end of February 2024.)

