

By Email

Animal Law Reform South Africa
[REDACTED]

outreach@animallawreform.org

Our Ref
10560831/L Fine/D Pereira

Your Ref
[REDACTED]

Date
3 March 2023

Dear [REDACTED]

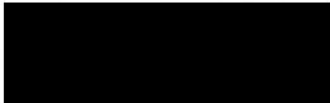
**OUR CLIENT: PICK N PAY RETAILERS (PTY) LTD
CORPORATE ACCOUNTABILITY PROJECT - REQUEST FOR ACCESS TO INFORMATION**

We refer to your email of 8 February 2023, to which we have been instructed to reply as is set out below.

- 1 As requested, please find attached, marked “**A**”, the affidavit relating to items of the Request that were refused in terms of section 55(1) of the Act.
- 2 In relation to the items refused on the grounds of confidentiality. I confirm that our client sent a notice to its suppliers informing them of your request in terms of section 71 of the Act. The wording of this notice is annexed hereto marked “**B**.” To date our client has no received representations from its suppliers in response to the section 71 notice.
- 3 Accordingly, we are of the view that our client has discharged its obligations in terms of the Act concerning its Decision to your Request.
- 4 Please do not hesitate to contact us should you have any queries.

**AFIDAVIT IN TERMS OF SECTION 55(1) & (2) OF THE PROMOTION OF
ACCESS TO INFORMATION ACT 2 OF 2000.**

I, the undersigned,

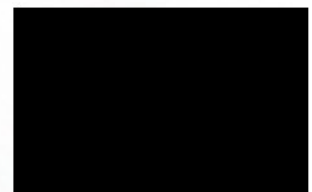


do hereby make oath and state as follows:

- 1 I am an adult female employed at Pick n Pay Retailers (Pty) Ltd ("**Pick n Pay**") as head of its legal department. I have been duly authorised by the chief executive officer of Pick n Pay to act as the Information Officer of Pick n Pay in terms of the Promotion of Access to Information Act No. 3 of 2000 ("**the Act**"), and as such I am duly authorised to depose to this affidavit.
- 2 The facts contained herein are, save where the context indicates otherwise, within my personal knowledge and are to the best of my belief true and correct.
- 3 The purpose of this affidavit is to demonstrate that Pick n Pay has complied with its statutory obligations in terms of section 55 (1) & (2) of the Act.

SECTION 55(1) & (2) OF THE ACT

- 4 On 17 January 2023, Pick n Pay caused its attorneys of record to send a letter to the ALRSA recording its decision in terms of section 56 of the Act ("**the Decision**") in reply to the ALRSA's request in terms of section 53(1) of the Act ("**the Request**").
- 5 The ALRSA has requested that Pick n Pay respond on affidavit in respect of the items of the Request that were refused in terms of section 55(1) of the Act.



6 These relate to paragraphs 6.6, 6.10, and 6.11 of the Request.

ITEM 6.6 OF THE REQUEST

7 The ALRSA requested any and all relevant records relating to Pick n Pays' assets and stocks. This request does not meet the requirements prescribed by section 53(2)(a)(i) of the Act as it does not contain sufficient particulars to enable Pick n Pay to identify the item requested. Even though the request is irregular, and whilst the asset register and stock records are fluid documents which change on a regular basis, in an attempt to assist the ALRSA, I attach marked "MK1", the asset register and stock records relating to chicken and egg produce extracted on 14 February 2023.

ITEM 6.10 OF THE REQUEST

8 The ALRSA has requested records indicating any and all animal welfare-related commitments and progress towards these commitments, including:

8.1 Better Chicken Commitments;

8.2 Cage-Free Commitments; and

8.3 Other relevant commitments;

9 In paragraph 2 of its Decision, Pick n Pay provided the ALRSA with its ESG Performance Summary and Databook Report 2022 (**"the Report"**).

10 In terms of the Report, Pick n Pay has demonstrated several relevant animal and environmental related commitments, such as its food waste reduction commitments, its ethical sourcing commitments, its net zero carbon commitments, its climate commitments, and its sustainable packaging commitments.

11 In addition, Pick n Pay's Technical Division has sourced several side panels which Pick n Pay places on the packaging of its products. Some of these side panels read as follows:

11.1 *"Our hens are fed a well-balanced and nutritious diet ensuring the best eggs;"*

11.2 *"We make it easy for you to live free range;" and*

- 11.3 *"We believe in supporting ethical farming methods. The Free-Range Animals are kept in natural conditions, fed a wholesome diet, and are allowed to roam outside."*

Copies of the relevant side panels are annexed hereto marked "MK2."

- 12 Save for the aforementioned records, and having consulted with various internal departments, there are reasonable grounds to believe that further records pertaining to item 6.10 of the Request do not exist.

ITEM 6.11 OF THE REQUEST

- 13 In terms of this request the ALRSA requires any and all public statements relating to animal welfare regarding eggs, sourcing thereof or chickens under Pick n Pay's control.

- 14 With further reference to the Report already provided, which report has significantly been made public, page 6 therein contains the following public statement:

- 14.1 *"We are committed to ensuring that our own brand products are grown, sourced and produced responsibly and sustainably. This includes promoting healthy oceans and fish stocks, animal welfare, and tracking ingredients with high environmental and social impacts."*

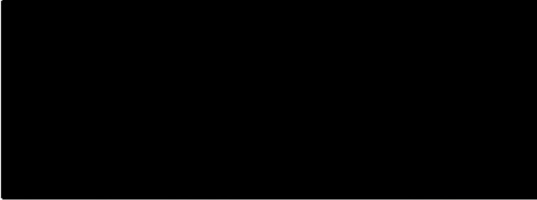
The relevant extract of the report is annexed hereto marked "MK3."

- 15 Furthermore, the wordings contained on the side panels of Pick n Pays chicken and egg related products, attached as MK2, are also in the public domain and are clearly visible on chicken and egg related products in Pick n Pay stores nationwide.

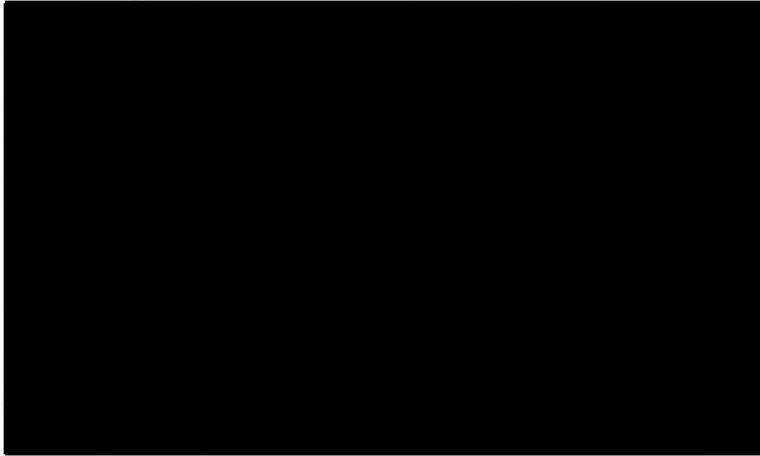
- 16 Having consulted with various internal departments, and save for the records and information already provided, there are reasonable grounds for believing that further records pertaining to item 6.11 of the Request do not exist.

CONCLUSION

- 17 Other than what has been provided herein, Pick n Pay is unable to give further access to the ALRSA in respect of items 6.6, 6.10, and 6.11 of the Request.

- 18 If, following the filing of this affidavit, and in terms of section 55(4) of the Act, further records pertaining to items 6.6, 6.10, and 6.11 of the Request are found, Pick n Pay shall grant the ALRSA access to same.
- 19 Accordingly, Pick n Pay has discharged its obligations in terms of Section 55(1) & (2) of the Act.
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I hereby certify that the above signature is the true signature of the abovenamed Deponent and that the Deponent confirmed to me that he has no objection to taking the prescribed oath which he considers binding on his conscience and that he knows and understands the contents of this affidavit, which affidavit was signed and attested before me at **CAPE TOWN** on this 02 day of March **2023** in accordance with Regulation R1258 dated 21st July 1972, as amended by Regulations R1648 dated 19 August 1977 and R1428 dated 11 July 1980.



NOTICE IN TERMS OF SECTION 71 OF THE PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000 (“THE ACT”):

Dear Sirs

We are considering a request from the Animal Law Reform of South Africa (ALRSA) for access to a record that might be a record contemplated in section 65 of the Act. A full copy of the ALSRA’s record is annexed hereto marked “A.”

In terms of section 65 of the Act, the head of a private body must refuse a request for access to a record of the body if its disclosure would constitute an action for breach of a duty of confidence owed to a third party in terms of an agreement.

The documents/ information requested by the ALSRA which we believe fall within the ambit of section 65 of the Act are the following (collectively referred to as “**the Record**”):

- Records relating to the number of chickens housed/processed per annum of each of your suppliers;
- Records relating to the number of eggs produced per annum of each of your suppliers;
- Records relating to nutrition of chickens of each of your suppliers;
- Records relating to the use of cages and type of cages used by each of your suppliers;
- Records relating to the stocking density of each of your suppliers;
- Records relating to the number of chickens and chicks culled in the production process by each of your suppliers; and
- Certificates/notices, letters and correspondence illustrating any third-party certifications, including Certificates/notices issued illustrating certification by A Greener World (“AGW”); and Other third-party certifications that may be relevant based on the aforementioned explanation of the Project.

We have informed the ALSRA that in terms of our Supplier Agreements, we together with our suppliers, are obligated to keep confidential *inter alia*, all information concerning consumers, the products, price lists, delivery details, business procedures and methods and volume of business. Accordingly, to the extent that we have further information and documentation requested, we are contractually obligated to ensure that this information is not disclosed to any third party.

In terms of Section 71(1)(e) of the Act, you may, within 21 days hereof:

1. make written or oral representations to us as to why the request for access should be refused; or
2. give written consent for the disclosure of the Record to the ALRSA.

Please do not hesitate to contact us should you have queries.

Kind regards

For: Pick n Pay Retailers Proprietary Limited

