

SCRAMBLING FOR THE TRUTH **V2**

*EGGSPOSING
CORPORATE
HYPOCRISY
AND NON-
TRANSPARENCY*



**ENVIRONMENTAL
AND
CONSUMER RIGHTS
IN THE
EGG INDUSTRY IN
SOUTH AFRICA**



2024



***NOTE:** This is Version 2 of the report titled “*Scrambling for the Truth: Eggsposing Corporate Hypocrisy and Non-Transparency*” originally published in September 2024 (“**Version 2 of the Supplementary Report**”). For a full record of all changes made to the report, see the Revision Note on page 280 below. Any reference to the Supplementary Report or “this report” made throughout this document should be regarded as a reference to Version 2, rather than Version 1 of the Supplementary Report.

ANIMAL LAW REFORM SOUTH AFRICA

Animal Law Reform South Africa (“**ALRSA**”) is South Africa’s first and only dedicated animal law non-profit organisation. ALRSA envisages a society whose laws, courts, enforcement agencies and private entities advance the protection and flourishing of humans, non-human animals and the environment, and are held accountable. ALRSA is a civil society organisation and registered non-profit company and NPO acting in the public interest.

ALRSA operates through three key Pillars being: Animal Flourishing; Social Justice; the Law. ALRSA undertakes its work through three main ‘Mechanisms’, namely: Education & Research; Legislative & Policy Reform; Litigation & Legal Services. Through these Mechanisms, ALRSA aims to contribute to the development of a robust animal law ecosystem in SA which recognises the intrinsic worth of non-human animals as sentient beings. Our work is grounded in our understanding that it is critical for a context-sensitive approach to be taken to the furtherance of animal protection in SA, and that the impact of our work is enhanced through an intersectional understanding of animal flourishing, social justice and environmental protection.

To learn more about our work generally, please visit [our website](#). To learn more about our multi-phase Corporate Accountability Programme, please visit our dedicated [Project website](#), which contains this Supplementary Report, as well as our Initial Report, titled “*Laying Down the Facts: Animal Welfare Standards of the Companies Providing Your Favourite Foods*” (v2)*.

Please note that our Initial Report was originally published in August 2023. An updated version (v2) of the Initial Report (published in September 2024) contains minor amendments following input from a particular Selected Stakeholder post publication of version 1. Any reference to the Initial Report made throughout this Supplementary Report should be regarded as a reference to Version 2 of the Initial.

RECOMMENDED CITATION

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CO-AUTHORS' DISCLAIMER

The co-authors of this Supplementary Report are Amy P. Wilson, Michaela Tafani-du Preez, Cheslyn C. Ceaser, and Melanie J. Murcott, each contributing expertise and legal research including in the areas of animal law, environmental law, corporate law. For detailed backgrounds, please refer to our [organisational website](#).

*PLEASE READ OUR LEGAL AND DISCLAIMERS SECTION.

Please consult our Supplementary Glossary and Glossary from our Initial Report for a list of defined terms. Unless the context otherwise requires, capitalised terms have the meanings ascribed to them in the Supplementary Glossary or the Glossary from our Initial Report, as appropriate.

We value transparency and remain committed to ensuring accuracy in our reporting. We value effective engagement and welcome queries, comments, corrections, suggestions on and proposed amendments to this Supplementary Report as well as the Initial Report including by the (Phase 2) Selected Stakeholders, as appropriate. We reserve the right to amend this Supplementary Report, as needed.

Please email outreach@animallawreform.org for communications in respect of this Supplementary Report.

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RUNNING FOWL: EGG-NORING BUYER'S RIGHTS & CORPORATE OBLIGATIONS



SECTION II:

SUPPLEMENTARY CONSUMER PILLAR:

RUNNING FOWL: “Egg-Noring” Buyer’s Rights & Corporate Obligations

PART A: LAYING THE FOUNDATIONS

A CORPORATE DILEMMA

Corporations tend to prioritise making profits over other responsibilities, which has been described as a “*pathological pursuit of power*”.⁴⁸³ While pursuing profits are inevitably part of a Corporation’s purpose, and in the interests of certain of their stakeholders, such as shareholders (to which they are accountable), such an approach can impact various other stakeholders’ interests, including their consumers, and can lead to exploitative practices that take advantage of them.⁴⁸⁴ In order to counteract these practices, it is crucial for consumers to be educated about, and understand the true impact of the products they consume.⁴⁸⁵ Whether these be ethical-, animal-, environmental-, or health-related, informed consumers can make more conscious and responsible decisions.⁴⁸⁶ Consumers in turn, can also put pressure on Corporations to undertake more sustainable and ethical practices, which could drive significant change in society.⁴⁸⁷ The types of activities and manner in which a Corporation conducts them can have far-reaching implications on more than their bottom line. With great power, comes great responsibility, and it is critical that Corporations understand the responsibilities they have to all relevant stakeholders.

THE POWER OF INFORMED CONSUMERS

In Phase 1, in the context of animal welfare, we highlighted certain Cruel Practices occurring within the Egg Industry such as the use of Battery Cages; the maceration (shredding) of baby male Chicks whilst alive; de-toeing; debeaking; and the killing of Layer Hens that are regarded as “unproductive.”⁴⁸⁸

⁴⁸³ Bakan, J (2012) *The corporation: The pathological pursuit of profit and power*. Hachette UK, accessible at: <https://books.google.co.za/books?hl=en&lr=&id=B2ueBAAAQBAJ&oi=fnd&pg=PT6&dq=Corporations+prioritise+profit+margins+over+consumer+protection&ots#v=onepage&q&f=false>.

⁴⁸⁴ *Ibid.*

⁴⁸⁵ Hartmann, C et al (2021) Measuring consumers’ knowledge of the environmental impact of foods. *Appetite*, 167, p.105622, accessible at: <https://www.sciencedirect.com/science/article/pii/S0195666321005298>.

⁴⁸⁶ Hampton, J.O et al (2021) Animal harms and food production: Informing ethical choices. *Animals*, 11(5), p.1225, accessible at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8146968/>.

⁴⁸⁷ Infomineo <https://infomineo.com/fmcg/consumer-trends-and-the-demand-for-sustainable-products/> (accessed on 14 August 2024).

⁴⁸⁸ SAPA <https://www.sapoultry.co.za/wp-content/uploads/2022/06/2022-SAPA-COP.pdf> (accessed on 14 August 2024). For an in-depth discussion on the animal welfare implications of the Egg Industry, see *supra* note 33.

As will be further elaborated on in this Pillar, research shows that consumers regard animal well-being and environmental sustainability as key considerations when purchasing food products.⁴⁸⁹ Yet, Corporations generally fail to adequately disclose and report on practices and harms relating to these issues, and some may even spread misinformation through the labelling, advertising and marketing of products.⁴⁹⁰ This can include (mis)information relating to methods of production to the subjective feelings of animals (e.g. claims of *happiness*). As mentioned above, for purposes of this Supplementary Report, we refer to deceptive practices by Corporations, such as Greenwashing, Humane-washing, Health-washing, and Blue-washing, collectively as ‘Corporate Hypocrisy’. Corporate Hypocrisy may prevent consumers from knowing certain truths about the products they purchase, including eggs. Accordingly, it is imperative that Corporations making claims about their products, through statements, labelling, advertising, and marketing, are clear, transparent, and truthful.⁴⁹¹ This means that claims should not be exaggerated and/or misleading to consumers.⁴⁹² In parallel, Corporations should be required to disclose certain information in the public domain about their practices and the impacts of their business, particularly where these impact fundamental rights.

Consumer Protection has been selected as a Research Pillar for this Supplementary Report because transparency is viewed as vital in an open democracy, including for freedom of choice and empowered decision making. Public sentiment is reflected in laws and court decisions that address ethical practices in the food industry, highlighting the importance of accountability and consumer values.

By requesting records and information from Corporations, including in relation to their Consumer Awareness Statements about animal welfare or the environment, together with other information requested which speak to the validity of these claims, we can begin to interrogate whether they are being transparent and accountable to their stakeholders, including consumers and members of the public.

In this Part A, we introduce selected rights of consumers and duties and responsibilities of corporations towards consumers and define Corporate Hypocrisy. In Part B, we consider a few key questions, research and examples relating to consumer awareness and concern on issues such as animal and environmental protection and health. We further explore Corporate Hypocrisy and its elements for purposes of this Supplementary Report including Greenwashing, Humane-washing, Blue-washing and Health-washing. In Part C, we explore selected governance in respect of consumer protection including laws, bodies, codes and standards as well as cases of relevance in SA and foreign jurisdictions. In Part D, we provide an example of where consumer rights are impacted by a non-publicly available study relating to the South African Egg Industry and why this study is important. In Part E we provide selected measures to enhance consumer rights, which are expanded on further in Section IV. Throughout these

⁴⁸⁹ *Supra* note 2, and Insites Consulting <https://www.insites-consulting.com/blog/sustainability-in-south-africa/> (accessed on 14 August 2024).

⁴⁹⁰ Fong, J et al (2023) Debunking misinformation about consumer products: Effects on beliefs and purchase behavior. *Journal of Marketing Research*, p.00222437221147088, accessible at: https://www.ftc.gov/system/files/documents/public_events/1588356/fongguorao_updated.pdf.

⁴⁹¹ Claspo <https://claspo.io/blog/transparency-in-advertising-the-importance-of-being-honest-and-clear-in-marketing-communications/> (accessed on 14 August 2024).

⁴⁹² *Supra* note 33.

Parts, we include in blocks, specific PAIA requests ALRSA made in Phase 2 to Selected Stakeholders which correspond to the issues highlighted. We do this to provide a foundation for understanding our requests and how they relate to the matters included in this Supplementary Report (some of which were also included in the Initial Report).

CORPORATE HYPOCRISY

WEAVING A WEB OF DECEIT



Corporate Hypocrisy

This umbrella term encapsulates the difference between what a Corporation says and what they do (or don't do).

False, misleading, or exaggerated claim/s or action/s made by a Corporation about the impact that a company, industry, product or service has on the environment, animals and/or people – which may create a perception that a Corporation is acting hypocritically.



The Intersection of Consumer Protection and Other Issues in the Egg Supply Chain

Consumer protection in the Egg Supply Chain is a critical focus of this Supplementary Report, as it directly impacts the health and safety of consumers, the treatment of animals, the integrity of the environment, and fundamental rights, influencing their food choices. Consumer protection accordingly intersects with other key Research Pillars identified in the Initial Report including Animal Welfare, Environment, Food Safety & Health, Social Issues & Rights, and Corporate & Business practices. Strong Consumer Protection Measures are essential within the Egg Supply Chain to ensure that consumers receive safe, high-quality products, while fostering transparency and accountability amongst relevant stakeholders.



Graphic Representation of linkages between the Consumer Pillar as a secondary focus of this Supplementary Report and other Research Pillars selected for our Initial Report.

THE ROLE OF CONSUMER RIGHTS IN SAFEGUARDING AGAINST CORPORATE HYPOCRISY

Consumers have legal rights in terms of the products and services they purchase (and even less directly in terms of products and services marketed to them). These rights stem from the Constitution and various pieces of legislation, most notably, the CPA. In parallel, there are corresponding and additional duties on Corporations,⁴⁹³ failure to comply with which can lead to harms, liabilities and risks, and legal

⁴⁹³ Regulations Regarding the Grading, Packing and Marking of Eggs Intended for Sale in the Republic of SA published in Government Gazette No. 43108 of Notice R.345 on 20 March 2020 (“**Egg Labelling Regulations**”), accessible at https://www.gov.za/sites/default/files/gcis_document/202003/43108rg11055gon345.pdf, and the CPA, among others. There are arguably also ethical or moral obligations towards their consumers which are often overlooked.

action, among other issues⁴⁹⁴ From a consumer perspective, breaching duties goes beyond purely financial risks and harms, as it can impact on their health, quality of life, safety, well-being and rights.

Consumer Rights in the CPA

Some of the specific rights contained in the CPA, include:⁴⁹⁵

- CONSUMER RIGHT 1: Right to Equality in the Consumer Market and Protection Against Discriminatory Marketing Practices.
- CONSUMER RIGHT 2: Right to Privacy.
- CONSUMER RIGHT 3: Right to Choose.
- CONSUMER RIGHT 4: Right to Disclosure of Information.
- CONSUMER RIGHT 5: Right to Fair and Responsible Marketing.
- CONSUMER RIGHT 6: Right to Fair and Honest Dealings.
- CONSUMER RIGHT 7: Right to Fair, Just and Reasonable Terms and Conditions.
- CONSUMER RIGHT 8: Right to Fair Value, Good Quality and Safety.
- CONSUMER RIGHT 9: Right to Accountability from Suppliers.

⁴⁹⁴ Oxbridge Academy: <https://www.oxbridgeacademy.edu.za/blog/consumer-protection-act-matter/s>.

⁴⁹⁵ Government of South Africa: https://www.gov.za/sites/default/files/gcis_document/201409/321864670.pdf.

CONSUMER PROTECTION IN SOUTH AFRICA:

UNDERSTANDING YOUR BASKET OF RIGHTS

In South Africa, consumers have protected rights, including those in the Constitution as well as the Consumer Protection Act (CPA).¹



The CPA, and our courts,² affirm that as a consumer you should be able to make informed decisions about the products you buy, including in relation to the treatment of animals.



"The public has a right to be informed of the humane or inhumane treatment of animals... Members of the public have the freedom to decide which commercial enterprise they support and which they do not. That freedom of choice can only be exercised if activities happening...are laid bare for the public."³



These rights act as a measure of protection to you, the consumer, from harmful and misleading practices.

¹ Consumer Protection Act 68 of 2008.

² *Booi Smuts and Another v Herman Botha* (887/20) [2022] ZASCA 3 (10 January 2022).

³ *Ibid* at para 25.

Consumer Rights and the Constitution

While the Bill of Rights does not contain a specific right entitled *consumer* protection, there are various constitutional rights that may be applicable to consumers in the context of the marketplace, including:

- **s 9 - RIGHT TO EQUALITY:** supports the consumer’s right to equality in the marketplace, which is relevant to the uneven impacts and inequalities of poor food quality experienced along factors including but not limited to race, class, gender, and others.
- **s 10 - RIGHT TO HUMAN DIGNITY:** demands that consumers be treated with respect and fairness in their transactions. By safeguarding consumers from exploitation, deception, and unsafe products, the law upholds their dignity, recognising their inherent worth and right to make informed decisions in the marketplace.
- **s 14 – RIGHT TO PRIVACY:** protects the right to privacy, which is relevant to consumer rights concerning personal information and data protection, among others.
- **s 16 – RIGHT TO FREEDOM OF EXPRESSION:** includes the right to receive or impart information, which is crucial for consumers to make informed choices.
- **s 27 – RIGHT TO HEALTH CARE, FOOD, WATER AND SOCIAL SECURITY:** includes the right to have access to adequate food and water, which relates to consumer rights in terms of product safety and quality.
- **s 32 – RIGHT TO ACCESS TO INFORMATION:** enables consumers to make informed decisions, thereby enhancing their ability to exercise other consumer rights effectively, such as the right to fair value, good quality and safety.

These and other rights collectively support a framework that promotes fair treatment, safety, and informed choices for consumers in SA, reinforcing the rights outlined in the CPA, and other legislation, standards and codes.

DUTIES AND RESPONSIBILITIES OF CORPORATIONS TOWARDS CONSUMERS: CORPORATE ACCOUNTABILITY

Corporations must recognise, respect and in some cases promote consumer rights, as regulated by government laws and policies, industry norms and standards, and internal policies. Due to the various stakeholders to which they are accountable – for example—internal stakeholders such as investors, shareholders, directors, employees, among others as well as external stakeholders including consumers, (and arguably animals, and the environment)—they are responsible for balancing stakeholder interests and ensuring their practices do not exploit or harm consumers.⁴⁹⁶

⁴⁹⁶ You Matter <https://youmatter.world/en/category-society/consumers-expectations-transparent-companies-social-environment/> (accessed on 14 August 2024).

Corporate Accountability is vital for consumer protection, driving ethical practices and maintaining high standards of product safety and quality through rigorous control and ethical sourcing.⁴⁹⁷ Transparency in labelling, advertising and marketing is also essential - Corporations must avoid misleading claims and provide clear, accurate information.

By fostering a culture of CSR, Corporations can build trust and loyalty among consumers.⁴⁹⁸ Corporate Accountability extends beyond legal compliance, demanding a commitment to acting in consumers' best interests and supporting a fairer, more sustainable economy.⁴⁹⁹

Obstacles to Corporate Accountability: Corporate Hypocrisy

The lack of adequate information, regulation and enforcement relating to the vast potential harms and impacts of animal agriculture industry may be exploited by Corporations when labelling, marketing, and advertising animal sourced foods to consumers or making statements about their operations and activities. Common forms of this exploitation include Greenwashing; and Humane-washing, Health-washing and/or Blue-washing. These harmful tactics which may employed by corporations serve to keep consumers in the dark about realities to ensure continued support.

Further information will be provided in respect of these practices in Part B of this pillar, below. Each of these terms can be defined different, but for purposes of this Supplementary Report:

● **Greenwashing** may be defined as:

“[t]he making of false, misleading, or exaggerated claim/s about the impact that a company, industry, product or service has on the environment. Can appear as words, illustrations, logos, or any visual expression on packaging, in advertising, marketing or other product-related communications - including in media, annual reports, or otherwise. Greenwashing is often used as an umbrella term to include other forms of problematic practices.”

● **Humane-washing** may be defined as:

“[t]he making of false, misleading or exaggerated claim/s about the treatment of animals or the conditions in which they are born, raised, transported, or killed, creating the impression that animals are treated with compassion or in an ethical manner. Can appear as words, illustrations, logos, or any visual expression on packaging, in advertising, or other product-related communications - including in media, annual reports, or otherwise.”

⁴⁹⁷ 99percentcampaign <https://99percentcampaign.org/corporate-accountability-holding-big-business-responsible/> (accessed on 14 August 2024).

⁴⁹⁸ Azmat, F (2013) Corporate social responsibility, customer trust, and loyalty—perspectives from a developing country. *Thunderbird International Business Review*, 55(3), pp.253-270, accessible at: <https://onlinelibrary.wiley.com/doi/abs/10.1002/tie.21542>.

⁴⁹⁹ 99percentcampaign <https://99percentcampaign.org/corporate-accountability-holding-big-business-responsible/> (accessed on 14 August 2024).

● **Health-washing** may be defined as:

“[t]he making of false, misleading or exaggerated claim/s about the impact that a company, industry, product or service has on consumer or public health. Can appear as words, illustrations, logos, or any visual expression on packaging, in advertising, or other product-related communications - including in media, annual reports, or otherwise.”

● **Blue-washing** may be defined as

“[t]he making of false, misleading, or exaggerated claim/s about Corporate Social Responsibility (CSR), or the impact that a company, industry, product or service has, particularly as these relate to society, communities, human rights and international obligations. These practices can create a deceptive impression of ethical and responsible conduct. Can appear as words, illustrations, logos, or any visual expression on packaging, in advertising, or other product-related communications - including in media, annual reports, or otherwise.”

To encapsulate these forms of washing and problematic practices, ALRSA defines **Corporate Hypocrisy** for purposes of this Supplementary Report as:

“False, misleading, or exaggerated claim/s or action/s made by a Corporation about the impact that a company, industry, product or service has on the environment, animals and/or people – which may create a perception that a Corporation is acting hypocritically. For purposes of this Supplementary Report, it encompasses practices such as Greenwashing, Humane-washing, Blue-washing and Health-washing.”

Based on the above, a focal point of Phase 2 of our Project was requesting information from the Phase 2 Selected Stakeholders relating to their animal, environmental and consumer practices. Our comprehensive PAIA requests, included asking for detailed records on Relevant Legislation, Consumer Awareness Statements, and other applicable records.

PART B: LAYING DOWN THE FACTS

CONSUMER AND CORPORATE PERSPECTIVES

We recognise that there are various other perspectives and stakeholders at play in any context, but for purposes of our exploration of consumer protection in the Egg Industry, in this Part B and Part C below, issues will be considered from two perspectives: the consumer and the Corporation. Part C will explore how certain of these issues are addressed and regulated within current governance framework, including law, standards, soft law instruments, and relevant bodies.




From a consumer perspective: Consumers can only make informed choices when they have access to accurate, reliable, complete, reliable, relevant, timely and understandable information. They can only

demand better when they understand the potential implications (including harms) of stakeholders' products and actions (including business operations and activities). To become more aware of their choices and their impacts, consumers can conduct their own research, however, information is not always readily accessible, and consumers might not always know what to look for. Additionally, even when information is available, it can be challenging to understand or even misleading, or false. Therefore, the responsibility and onus should not only (or even mostly) lie or be with consumers but should rather with those supplying goods or services. This principle is reflected in consumer protection regulations in SA and globally.

The above raise practical issues and questions that warrant further exploration, from a *consumer* perspective:

1. **Are consumers aware of the potential impacts of their choices (on animals, the environment, and their own rights including health)?**
2. **Do consumers care about animal welfare, environmental and health-related issues?**
3. **Do consumers care about transparency and accountability?**

 **From a corporate perspective:** Corporations, which hold immense power and influence in society, must be responsible and accountable for the products and services they provide. Accountability involves transparency about the impact of their products and activities on stakeholders, such as consumers, including aspects related to constitutional rights (such as the right to a healthy environment). Other aspects of consumer concern are also important including the treatment of animals, environmental harm and health considerations. Corporations should adhere to various standards: which can be in the form of law (legal standards), industry standards, internal standards and otherwise.

These obligations raise practical issues and questions that warrant further exploration, from a *corporate* perspective:

1. **Are Corporations transparent about the impact of their products (activities and operations) on animals, the environment, consumers and their rights (including health)?**
2. **Why should Corporations care about consumer opinion and awareness?**
3. **What actions could (and should) be undertaken by Corporations to appease these concerns?**

These questions are difficult to answer, and are based on numerous objective and subjective criteria, with many variables. However, as with all analyses, it is important to start somewhere, and this section begins to answer some of these as it relates to the Egg Industry in SA in particular, drawing on foreign examples and other sectors, for illustrative purposes.

To better understand these matters, we will draw on empirical evidence including surveys, examples from publications including newspapers, websites, reporting, surveys, petitions and protests conducted by advocacy groups and the SA public.

 CONSUMER PERSPECTIVE 

? Consumer Question 1: Are consumers aware of the potential impacts of their choices (on animals, the environment, and their own rights including health)?

Corporations, their supply chains and the impacts of their activities on consumer decision making are increasingly coming under the microscope on both a global and national level.⁵⁰⁰ Consumers are gradually becoming aware of their purchasing power and the impact of the choices their purchases is making on the environment and the lives of animals. For example, according to Statista in 2021, globally, 42% of online consumers are purchasing products that are eco-friendly and sustainable, with countries such as Vietnam (72%), India (69%), the Philippines (60%), and China (60%) leading the way.⁵⁰¹

It has been reported that the population of SA will increase from 59 million in 2020 to 66 million in 2030 and 80 million in 2080.⁵⁰² While there is a critical need to feed this growing population, rather than embracing potentially less harmful, small-scale and regenerative farming approaches, intensive practices are steadily being pursued. In the context of animal agriculture in particular, industrialised practices are increasing and becoming commonplace. Intensive agriculture is commonly being proved to have harmful and even devastating effects on animals, humans, and the environment, warranting alternative, more justifiable approaches.⁵⁰³

But is this move away from more traditional and extensive animal farming towards more intensive and industrialised systems something that the average consumers know about? Do consumers' perception of animal agriculture and common practices therein match the realities?

In a recent public survey conducted by ALRSA relating to food systems, specifically public awareness and perspectives on animal protection-related issues, of 519 participants distributed across the country who were representative of the South African population (the “**ALRSA Study**”)⁵⁰⁴, it was apparent that there is a disconnect between consumer understanding of animal food production systems and animals'

⁵⁰⁰ Naidoo M and Gasparatos A (2023) *Consumer worldviews and perspectives on environmental sustainability initiatives in the South African supermarket sector*, accessible at <https://www.sciencedirect.com/science/article/pii/S0959652623016542>.

⁵⁰¹ Statista <https://www.statista.com/statistics/1285023/sustainable-online-shopping-by-country/> (accessed on 14 August 2024).

⁵⁰² United Nations: <https://www.un.org/en/global-issues/population> (accessed on 14 August 2024).

⁵⁰³ Animal Law Reform South Africa (2022) White Paper: Sowing the Seeds of Change: Towards a More Just and Inclusive Food System in SA. Makonese, Makanatsa*, Muchadeyi, Farai*, and Wilson, Amy P*, accessible at <https://www.animallawreform.org/wp-content/uploads/2022/10/White-Paper-Food-Systems.pdf>.

⁵⁰⁴ M. Makonese*, F. Muchadeyi*, and A.P. Wilson*, *Working Paper: Barriers to the Transformation of South Africa's Food System: Can the Law be a Lever for Change?*, Animal Law Reform South Africa, 2022, accessible at: <http://www.animallawreform.org/wp-content/uploads/2022/07/Working-Paper-Food-Systems.pdf>

lived realities, as well as a lack of understanding of the health and environmental consequences of consuming certain animal products.

Table 7: Consumer understanding and perception of the animal farming practices in South Africa.⁵⁰⁵ *NOTE: **Highlights** and **bold underline** have been added for emphasis, not included in original table

Perception on Sector	True	False
1. To produce milk, cows need to have been recently pregnant and given birth to a calf	293 (56.5%)	226 (43.5%)
2. Companies can only say their products are “humane” if they follow certain legal standards	471 (90.8%)	48 (9.2%)
3. In the egg industry, male baby chickens are often killed because they do not produce eggs	215 (41.4%)	304 (58.6%)
4. Dairy is healthy and good for you	471 (90.8%)	48 (9.2%)
5. Veal comes from baby cows which are not older than 18 weeks old	317 (61.1%)	202 (38.9%)
6. Most animals farmed in South Africa are free range	263 (50.7%)	256 (49.3%)
7. Animals in farms are given antibiotics to keep them from getting sick	436 (84.0%)	83 (16.0%)
8. Humans can get infected with diseases from eating products from animals that were infected with such disease	458 (88.2%)	61 (11.8%)
9. The World Health Organization has linked the consumption of processed meats to cancer	355 (68.4%)	164 (31.6%)
10. It is illegal to mutilate farmed animals without anesthetic	365 (70.3%)	154 (29.7%)
11. There are proper welfare standards in place to protect animals farmed for food in South Africa	409 (78.8%)	110 (21.2%)
12. Animals used for food are stunned, or rendered unconscious before they are killed to ensure they do not suffer any pain	337 (64.9%)	182 (35.1%)
13. Most animals used for food in South Africa are pasture raised	367 (70.7%)	152 (29.3%)
14. Majority of the eggs consumed in South Africa are from chickens raised in cages	421 (81.1%)	98 (18.9%)
15. Animal agriculture is responsible for 15%-20% of greenhouse gas emissions	362 (69.7%)	157 (30.3%)
16. Wild animals are often killed to protect farmed animals	310 (59.7%)	209 (40.3%)
17. Cows are dehorned (remove horns) to make it easier to handle and transport them and to avoid them harming each other	325 (62.6%)	194 (37.4%)
18. Laying hens (chickens) are debeaked so that they do not harm other hens	289 (55.7%)	230 (44.3%)

⁵⁰⁵ *Ibid.*

According to the Working Paper in which the ALRSA Study was published: “Three hundred and twenty-seven (63%) of participants indicated that they are familiar with animal farming practices. Two hundred and eighty-one (56.1%) considered that animals in South Africa that are used for food live happy lives, whilst 303 (58.4%) believed that these animals are humanely treated and 478 (92.1%) that there should be laws and standards that regulate how animals on farms are treated. Three hundred and sixty-five (70.3%) believed that adequate laws and standards regulating how animals should be treated existed in South Africa. 305 (58.8%) of the participants have heard of the term ‘factory farming’, 413 (79.6%) believed farmed animals such as cows, pigs, goats, sheep, and chickens can suffer.”

The above study illustrates that even when consumer *think* they are aware of certain aspects of food production systems, this may not *actually* be the case in reality. For example:

- X nearly 91% of participating consumers thought that companies can only say their products are “humane” if they follow certain legal standards – which is not the case, as there are no legal standards relating to the use of the word**
- X nearly 79% of consumers thought that there were proper welfare standards in place to protect animals farmed for food in South Africa– which is not the case, as there are virtually no legally binding positive standards for animals utilised in animal agriculture.**

Despite the above indications of non-awareness relating to animal welfare issues, consumers are increasingly displaying at least some type of awareness / willingness with regard to considering the impact of their food on the environment.⁵⁰⁶ A poll conducted by YourView on 787 SA consumers to describe their current sustainable shopping habits confirmed that 23% of participants avoid products containing harmful chemicals or pollutants, 14% prioritise products certified as organic or sustainable by reputable organisations, 11% support brands displaying transparency and ethical supply chains, while only 4% of consumers do not consider sustainability as affecting their purchasing choices.⁵⁰⁷ Further, according to Statista, SA reported that 48% of online shoppers purchase products it regards as eco-friendly and sustainable.⁵⁰⁸

It is evident that “sustainability” and environmental “friendliness” as concepts play an increasingly significant role in the purchasing decisions of many SA consumers. However, the reality of determining whether products *are in fact* what they claim to be from an environmental perspective is another question altogether. Regardless, if Corporations know that these issues are important to consumers, and that in some cases consumers are willing to pay more for better, more ethical or more sustainable products, this provides incentives either to do better, or at the very least, *claim* or *appear* to do better for their consumers. The latter is problematic as it can lead to Corporate Hypocrisy.

⁵⁰⁶ Dive Brief, 2020 *Consumer awareness of food’s environmental impact is slowly growing*, accessible at <https://www.fooddive.com/news/kearney-report-food-environmental-impacts-consumers/622354/>.

⁵⁰⁷ KLA <https://kla.co.za/blogs/how-south-african-consumers-can-make-sustainable-choices/#> (accessed on 14 August 2024).

⁵⁰⁸ Statista <https://www.statista.com/statistics/1285023/sustainable-online-shopping-by-country/> (accessed on 14 August 2024).

Increasingly, research in other parts of the world reveals issues and the harms associated with animal agriculture, particularly the Layer Hen industry on animals, the environment and humans. For instance, in the US, 300 million male chicks are killed annually.⁵⁰⁹ The global average water footprint to produce 1 kilogram of chicken would take 4,325 litres of water, with India recording the consumption of over 3.9 million metric tons of poultry in the year of 2019.⁵¹⁰ In aiming to spreading awareness advocacy groups lead the way, through campaigning and education drives. In countries such as Cambodia, Lao PDR, Myanmar and Vietnam, specialised consumer education and awareness campaigns on food safety standards are undertaken, with particular emphasis of environmental impacts on food production and spreading awareness and research on consumer understanding of their role in the overall food system.⁵¹¹

Despite these and other measures undertaken by advocacy groups, the animal agriculture industry (in many cases, assisted by the media) may spread disinformation to maintain and increase the consumption of animal-derived products. Tactics include the denial of facts related to climate and health impacts of meat and dairy; derailing studies and debates regarding these impacts; delaying decision making and action for a transition towards more sustainable practices; and deflects criticism and attention of the public;⁵¹² and use of misleading labelling and marketing campaigns. For example, a recent study found that that animal agriculture is systematically underreported in climate media coverage.⁵¹³

More research is needed on these issues within the South African context to determine whether similar practices are occurring.

? Consumer Question 2: Do consumers care about animal welfare, environmental and health-related issues?

Along with increased *awareness*, it is important to understand whether there is also increased *care or concern* for animal, environmental and/or health-related issues. Two key studies and other actions are drawn on as examples to explore this question.

Example: NSF Study

According to a recent study conducted on consumers in SA by the National Sanitation Foundation (“NSF Study”), consumers are increasingly calling for animal well-being transparency and compliance from food companies.⁵¹⁴ In the NSF Study, over a thousand participants were surveyed across the country, which participants spanned all age groups and genders.⁵¹⁵

⁵⁰⁹ Sentient Media <https://sentientmedia.org/egg-industry/> (accessed on 14 August 2024).

⁵¹⁰ World Animal Protection <https://www.worldanimalprotection.org.in/latest/blogs/environmental-costs-animal-farming-strain-our-resources/> (accessed on 14 August 2024).

⁵¹¹ Asean https://www.asean-agrifood.org/wp-content/uploads/2021/06/02_Consumer-Education-and-Awareness-Campaigning-Guidelines.pdf (accessed on 14 August 2024).

⁵¹² Faunalytics <https://faunalytics.org/disinformation-from-the-animal-agriculture-industry/#> (accessed on 14 August 2024).

⁵¹³ Sentient Media <https://sentientmedia.org/climate-media-analysis/> (accessed on 14 August 2024).

⁵¹⁴ *Supra* note 2.

⁵¹⁵ It is however unclear whether all classes of society were approached in the conducting of this research.

The NSF Study found that **84%** of participants deem animal wellness as either “very important” or “extremely important” when selecting animal derived products including egg and/or egg related products.⁵¹⁶ The study further found that **87%** of participants consider it vital for Corporations to be consistent and compliant with animal well-being throughout both their own and their suppliers’ respective roles in the animal agriculture industry.⁵¹⁷ Consumers even expressed a willingness to pay a higher price for products that have been certified for animal well-being, with a reported **76%** of participants agreeing, and only **7%** stating that they would be unwilling to pay a higher price for products.⁵¹⁸

The findings of the NSF Study are significant in that they revealed not only are the majority of participating consumers swayed to support a Corporation that displays better animal welfare considerations, but these consumers are also willing to pay more for products they deem to be adherent to animal welfare standards. This then begs the question whether consumers are aware of animal welfare and sustainability practices. The NSF Study finding that only 3 in every 10 participants said they were “very” or “extremely” informed on SA animal welfare standards. This lack of knowledge leads to the potential for consumers being misled by statements or claims that could amount to Corporate Hypocrisy.

Example: ALRSA Study

In the aforementioned ALRSA Study, 358 (**69%**) of the participants indicated that they would, where possible, try and purchase products labelled as free-range and 386 (**74.4%**) were willing to pay more for foods where animal welfare is prioritised. These statistics illustrate that consumers *do* care more about higher welfare and more ethical products, and in some cases would pay more for same.

It is notable that consumers should not *have* to pay more for better foods, including those with higher welfare, as this arguably continues to perpetuate inequity in food systems and an implication that financial means should dictate the quality of food one is entitled to. It is submitted that all persons should have access to safe, healthy and high welfare foods as part of the right to food in the Constitution.

Public response to animal welfare and environmental impact concerns and impacts

Prior to becoming a democracy, people in SA were silenced by the government.⁵¹⁹ The country’s post-apartheid constitutional dispensation recognises and embraces the right to freedom of expression, which allows members of the public to make their voices heard.⁵²⁰ In addition, the right to protest is protected in the Constitution,⁵²¹ as well as other legislation.⁵²²

⁵¹⁶ *Supra* note 487.

⁵¹⁷ *Ibid.*

⁵¹⁸ *Ibid.*

⁵¹⁹ *Ibid.*

⁵²⁰ S16 of the Constitution states that (1) Everyone has the right to freedom of expression, which includes— (a) freedom of the press and other media; (b) freedom to receive or impart information or ideas; (c) freedom of artistic creativity; and (d) academic freedom and freedom of scientific research.

⁵²¹ S 17 of the Constitution.

⁵²² See for instance the Regulation of Gatherings Act 205 of 1993 and its associated regulations, accessible at: <https://www.gov.za/documents/regulation-gatherings-act> (accessed on 14 August 2024)..

People in SA use various forms of protests to highlight issues, including in-person protests, through online and written media and other channels, the signing of petitions, and other avenues where people can advocate publicly for issues of importance to them.

While there are many issues, for purposes of this Pillar, we focus on issues related to animal welfare,⁵²³ the environment,⁵²⁴ consumer protection⁵²⁵ and transparency with reference to aspects of food safety and health,⁵²⁶ social issues and rights.⁵²⁷

Selected Animal Welfare and Protection Related Matters

There are regular in-person protests in SA relating to the McLaren Circus, the only travelling animal circus in the country.⁵²⁸ In the online space, one petition has over 50,000 signatures calling for the circus to be banned.⁵²⁹ Notably, these protests and other forms of public pressure, specifically relating to the treatment of animals have resulted in inspections including by the National Council of Societies for the Prevention of Cruelty to Animals (“NSPCA”) and individual Societies for the Prevention of Cruelty to Animals (“SPCA”). During one inspection, the Cape of Good Hope SPCA⁵³⁰ found McLaren Circus to be in violation of the Animals Protection Act⁵³¹ for issues including inadequate space for a lioness, dental concerns with French Poodles, and environmental enrichment deficiencies for big cats.⁵³²

Additionally, protests in relation to the live export of animals are becoming an increasingly common occurrence in SA. For instance, in February 2024, a ship travelling from Iran to Brazil transporting 19 000 live cattle, had to make an emergency stop at the Cape Town Harbour in SA. A smell permeated throughout the city and caused school and university students, among other members of society, to be sent home.⁵³³ Upon inspection of the ship by the NSPCA, some animals were found dead among the living and a number of them had to be euthanised. Animals were living in faeces and horrific

⁵²³ This includes, among others, live export of animals for food. See for instance, the Stop Live Export SA Protest in Cape Town on 16 April 2024. We Can Change: <https://www.wecanchange.co.za/post/stop-live-export-sa-slesa-live-animal-export-protest-cape-town-tuesday-16-april-16h00> (accessed on 14 August 2024).

⁵²⁴ A prominent continued protest is the demand for systemic change for social and climate justice. See more information at GreenPeace <https://www.greenpeace.org/africa/en/blog/55334/south-african-activists-demand-systemic-change-for-social-and-climate-justice/> (accessed on 14 August 2024).

⁵²⁵ Aljazeera <https://www.aljazeera.com/news/2022/8/24/south-african-unions-go-on-protests-over-high-cost-of-living> (accessed on 14 August 2024).

⁵²⁶ *Supra* note 49.

⁵²⁷ *Supra* note 498.

⁵²⁸ Facebook <https://www.facebook.com/bananimaltradingsa/photos/-pop-up-circus-protest-mclaren-circus-the-only-traveling-animal-circus-in-south/3765338663478040/> (accessed on 14 August 2024).

⁵²⁹ Change.org <https://www.change.org/p/international-animal-rescue-shut-down-mclaren-circus> (accessed on 14 August 2024).

⁵³⁰ SPCA <https://capespca.co.za/> (accessed on 14 August 2024).

⁵³¹ *Supra* note 10.

⁵³² SPCA <https://capespca.co.za/inspectorate-news/mclaren-circus-issued-with-a-warning/> (accessed on 14 August 2024).

⁵³³ AP News <https://apnews.com/article/south-africa-cape-town-ship-smell-cattle> (accessed on 14 August 2024).

conditions.⁵³⁴ In response there were protests, which were reported on throughout the world.⁵³⁵ This incident made consumers more aware of animal welfare, food safety, and harm prevalent in the food industry and was also reported on in media outlets locally.⁵³⁶

Images representing selected protests on animal issues in South Africa: live export and animals used in circuses



Source: Stop Live Export SA⁵³⁷



Source: Ban Animal Trading⁵³⁸

SA consumers are involved in calls for the banning of using animals in cosmetic testing, with petitions available online to call for the ban on animal testing.⁵³⁹ An estimated 115 million animals are used in laboratory experiments worldwide, with an estimated 100 000 animals being used for testing in SA.⁵⁴⁰ Due to public pressure placed on government and the work conducted by advocacy groups in this regard, a private member's bill was introduced on two separate occasions into parliament targeted at criminalising cosmetic testing on animals.⁵⁴¹ Despite not yet becoming law, this is indicative of the effects of consumers being aware and applying pressure to causes related to animal cruelty in the country.

⁵³⁴ NSPCA <https://nspca.co.za/the-big-stink-leaves-cape-town-but-suffering-continues/> (accessed on 14 August 2024).

⁵³⁵ Middle East Vegan Society <https://middleeastvegansociety.org/blog/cape-towns-protest-against-live-animal-export-following-the-docking-of-the-livestock-carrier-ship-al-kuwait> (accessed on 14 August 2024).

⁵³⁶ Daily Maverick <https://www.dailymaverick.co.za/article/2024-02-20-inside-the-stinking-ship-at-cape-town-harbour-carrying-19000-cattle-to-the-middle-east/> (accessed on 14 August 2024).

⁵³⁷ Stop Live Export SA <https://stopliveexport.co.za/join-the-movement/> (accessed on 14 August 2024).

⁵³⁸ Ban Animal Trading: <https://www.facebook.com/bananimaltrading/albums/10159338663478040/> (accessed on 14 August 2024).

⁵³⁹ Change.org <https://www.change.org/p/1000000-ban-the-use-of-animals-for-cosmetic-testing-in-south-africa> (accessed on 14 August 2024).

⁵⁴⁰ Beauty Without Cruelty <https://bwcsa.co.za/animal-testing-aka-vivisection/> (accessed on 14 August 2024).

⁵⁴¹ Parliament https://www.parliament.gov.za/storage/app/media/Bills/2021/B1_2021_Animals_Protection_Amendment_Bill/B1_2_021_Animals_Protection_Amendment_Bill.pdf (accessed on 14 August 2024).

There are dozens of other petitions online relating to animal protection related matters in SA, including one which has garnered over 288,000 signatures.⁵⁴² While petitions may not be a completely accurate measure to garner support for an issue, they show public interest in and support for a matter. This support is particularly important where there is insufficient empirical evidence for such matters, as in the case of SA.

Selected Environmental (*and Animal*) Related Actions

In 2022, people in SA took to the streets to protest against Shell, a global group of energy and petrochemical companies, after it announced that it would start searching for oil and gas reserves off SA's eastern coast.⁵⁴³ Affected communities were concerned about their rights, civil society groups were concerned about the effect that seismic surveys have on aquatic environments and animals, including whales, and many South Africans decided to boycott Shell. Animal and environmental concerns featured prominently in calls to halt Shell's activities. These public actions, coupled with the work of various public interest organisations, and lawyers, led to South African courts revoking Shell's exploration rights to conduct seismic survey blasting in the area.⁵⁴⁴ The court placed the interests of local communities above those of a large corporation. Shell later admitted that the public boycotting influenced their decision to consider withdrawing from the country.⁵⁴⁵



Source: Greenpeace⁵⁴⁶



Source: Gallo Images / Brenton Geach⁵⁴⁷

⁵⁴² Change.Org <https://www.change.org/p/sick-acts-of-animal-cruelty-in-south-africa-calling-on-the-government-to-stand-up-and-implement-change> (accessed on 14 August 2024).

⁵⁴³ Euro News <https://www.euronews.com/green/2022/09/02/victory-for-the-planet-south-african-court-revokes-shells-oil-and-gas-exploration-rights> (accessed on 14 August 2024).

⁵⁴⁴ Greenpeace <https://www.greenpeace.org/international/story/55572/south-africa-celebrates-court-win-to-stop-shell-oil-exploration/> (accessed on 14 August 2024). *Supra* note 384.

⁵⁴⁵ African Activist <https://africanactivist.msu.edu/recordFiles/210-849-26567/bshell3opt.pdf/> (accessed on 14 August 2024).

⁵⁴⁶ *Supra* note 544.

⁵⁴⁷ Sourced from the Daily Maverick <https://www.dailymaverick.co.za/article/2024-05-19-wild-coast-seismic-tests-sa-protests-support-case-against-shell/> (accessed on 14 August 2024).

Other examples include the Amadiba Crisis Committee, established to fight mining titanium by the villagers of Xolobeni in Pondoland.⁵⁴⁸ The affected communities live in fear that their sacred ancestral land will be exploited by large mining Corporations. One such instance was taken to the High Court in 2018, and it was confirmed that “*mining developments can only take place with the full and informed consent of the Xolobeni community. If consent is not obtained, no mining may happen unless the state expropriates the land*” - a major win for the small community whose voices are typically ignored.⁵⁴⁹

? Consumer Question 3: Do consumers care about transparency and accountability?

In addition to concerns around animal and environmental protection, accountability and transparency are key components of SA’s constitutional dispensation. This is apparent through the Constitution itself, which includes the right to access to information as contained in s 32 as well as the enabling legislation of PAIA. Transparency is additionally included in various other provisions of the Constitution and throughout different laws.

The importance of transparency in the context of governing the environment has been reflected in further detail in the Environmental Pillar, as well as in the Initial Report. Transparency as it relates to consumer rights is contained in various legislation as well as how it has been adjudicated on by the courts, is expanded on in Part C of this Pillar. The Initial Report further expanded on transparency and accountability relating to companies in the Corporate and Business Pillar, and explored selected provisions of the Companies Act, and other corporate law elements.

The inclusion of these provisions in law, policies and judicial pronouncements serves as an important marker that SA and its people place high value on transparency and accountability – whether this relates to government or the private sector, including corporations. The inclusion of the private sector is evidenced through the horizontal application of the Constitution.

Further, SA courts have adjudicated on various matters relating to holding corporations accountable for the disclosure of information to the public, including: the right to access of information in the protection of a right,⁵⁵⁰ the burden of justification for refusals by corporations in refusing access to records;⁵⁵¹ and

⁵⁴⁸ Just Associates <https://justassociates.org/all-resources/women-defending-land-and-life-the-story-of-amadiba-crisis-committee-southern-africa/> (accessed on 14 August 2024); Ground Up <https://groundup.org.za/article/xolobeni-where-discovery-rare-minerals-has-led-violence/> (accessed on 14 August 2024).

⁵⁴⁹ *Ibid* and *Baleni and Others v Minister of Mineral Resources and Others* (73768/2016) [2018] ZAGPPHC 829; [2019] 1 All SA 358 (GP); 2019 (2) SA 453 (GP) (22 November 2018), accessible at: <https://www.saflii.org/za/cases/ZAGPPHC/2018/829.html>.

⁵⁵⁰ *Fortuin v Cobra Promotions CC* (1658/09) [2010] ZAECPEHC 40; 2010 (5) SA 288 (ECP); [2011] 2 All SA 225 (ECP) (17 June 2010), accessible at: <https://www.saflii.org/za/cases/ZAECPEHC/2010/40.html>.

⁵⁵¹ *BHP Billiton PLC Inc and Another v De Lange and Others* (189/2012) [2013] ZASCA 11; 2013 (3) SA 571 (SCA); [2013] 2 All SA 523 (SCA) (15 March 2013), accessible at: <https://www.saflii.org/za/cases/ZASCA/2013/11.html>.

their obligations to remain transparent in respect of matters related to disclosure of information regarding the environment.⁵⁵²

As will be detailed further in Part E of this Consumer Pillar, in the context of the Egg Industry, there is a particular concern around non-transparency of one study by the National Agricultural and Marketing Council of South Africa (“NAMC”) relating to the economic feasibility of transitioning to cage free systems in the country. A recent petition has been signed by close to **4,000** members of the public requesting its release.⁵⁵³



CORPORATE PERSPECTIVE



Corporate Question 1: Are corporations transparent about the impact of their products (activities and operations) on animals, the environment, consumers and their rights (including health)?

Corporate Hypocrisy in its various forms (and not necessarily referred to by that name) is, and should be, a growing concern for consumers, governments and advocacy groups. The importance of coherence between the statements made by corporations and their actions is coming under continued scrutiny.⁵⁵⁴ This is evident from the rise of consumer protection laws and policies, both domestically and internationally as well as the rise of litigation in respect of the forms of problematic practices, such as ‘washing’ undertaken by corporations. For instance, litigation in respect of legal liability for greenwashing by corporations are growing in regularity around the globe.⁵⁵⁵ A report entitled “*Global Trends in Climate Change Litigation: 2024 Snapshot*”, highlighted that about 230 climate-aligned lawsuits have been initiated against corporations since 2015, with more than two thirds being filed since 2020.⁵⁵⁶

What are examples of bad corporate practices / non-transparency?

As aforementioned, many consumers care: about issues such as protecting animals, the environment, their health or social interests, and might even be willing to pay more for or support Corporations in advance of these aims. However, they lack sufficient information, knowledge and understanding about the realities of these issues and what better, (more) ethical, (more) sustainable, (more) healthy or (more) responsible practices or standards look like in reality. Alternatively, consumers might not care about these issues, but still lack awareness.

⁵⁵² *Minister of Environmental Affairs and Another v ArcelorMittal South Africa Limited* (Case no 342/2019) [2020] ZASCA 40 (17 April 2020) <https://cer.org.za/wp-content/uploads/2020/04/Minister-of-Environment-v-AMSA-2020.pdf>.

⁵⁵³ FOUR PAWS <https://help.four-paws.org/en/egg-industry-laws-being-influenced-secret-report> (accessed on 14 August 2024).

⁵⁵⁴ Universidad Nacional de Misiones <https://www.redalyc.org/journal/3579/357967638010/html/> (accessed on 14 August 2024).

⁵⁵⁵ Grantham Research Institute <https://www.lse.ac.uk/granthaminstitute/news/climate-litigation-against-companies-is-on-the-rise-report-finds/> (14 August 2024).

⁵⁵⁶ *Ibid.*

These conditions can create a perfect environment for Corporate Hypocrisy to thrive and opportunities for consumers to be potentially misled by business operations, activities, products or services.

As discussed above, Corporate Hypocrisy comprises the various forms of washing namely Blue-washing, Green-washing, Humane-washing and Health-washing. The below sections will provide further context into these forms of washing and their impacts, as they potentially relate to the Egg Industry.

BLUE-WASHING AND (CORPORATE) SOCIAL RESPONSIBILITY

At its core, Blue-washing is about misdirecting consumers with false, misleading or exaggerated claims by Corporations about their CSR as it relates to society, communities and human rights. The common tactic employed by these Corporations is emphasising or exaggerating their commitment to the United Nations Global Compact (“**UNGC**”)⁵⁵⁷ and the Sustainable Development Goals (“**SDGs**”).⁵⁵⁸

The UNGC is the world’s largest corporate sustainability initiative and provides 10 key principles for businesses to incorporate into their strategies, policies and procedures to ensure their actions are aligned with best sustainability measures.⁵⁵⁹ Among these principles, the UNGC, in terms of its environment principles states that “*businesses should support a precautionary approach to environmental challenges*”; “*undertake initiatives to promote greater environmental responsibility*”; and “*encourage the development and diffusion of environmentally friendly technologies.*”⁵⁶⁰ While admirable, these principles remain vague, voluntary, and without specific and clear targets or measures in respect of corporate actions and undertakings. As a result, Corporations may reference this report, stating their alignment with the UNGC and fail to provide specific measures to consumers as to their actions in the achievement of these goals.

The second international measure corporations often refer to is the Sustainable Development Goals (“**SDGs**”). The SDGs are a set of 17 interconnected objectives aimed at the promotion of environmental, social and economic aspects of sustainable development for the well-being of both humans and the planet.⁵⁶¹ What is known as the “environmental cluster” comprises of the sustainable management of water resources,⁵⁶² climate change,⁵⁶³ the conservation and sustainable use of marine resources,⁵⁶⁴ and biodiversity⁵⁶⁵ and would underpin corporate activities in relation to the environment. These SDGs however suffer the same shortcomings as the UNGC in that they are voluntary, with limited clear measures of achievement by Corporations. As such, Corporations may cite this document without

⁵⁵⁷ The United Nations Global Compact <https://unglobalcompact.org/> (accessed on 14 August 2024).

⁵⁵⁸ The Sustainable Development Goals <https://sdgs.un.org/goals> (14 August 2024).

⁵⁵⁹ Hill, J., 2020. *Environmental, Social, and Governance (ESG) investing: A balanced analysis of the theory and practice of a sustainable portfolio*. Academic Press., accessible at: <https://www.sciencedirect.com/topics/economics-econometrics-and-finance/united-nations-global-compact>.

⁵⁶⁰ The UNGC mission and principles, accessible at <https://unglobalcompact.org/what-is-gc/mission/principles>.

⁵⁶¹ Science Direct, the Sustainable Development Goals (“SDGs”), accessible at <https://www.sciencedirect.com/topics/earth-and-planetary-sciences/sustainable-development-goals>.

⁵⁶² SDG 6.

⁵⁶³ SDG 13.

⁵⁶⁴ SDG 14.

⁵⁶⁵ SDG 15.

actually undertaking any meaningful measures to protect the environment or people, which could lead to consumer uncertainty and confusion as to the sustainability of the products they are purchasing.

Additional forms of Blue-Washing could include the making other broad claims relating to the promotion of human rights, social justice and even community initiatives. This a form of misdirection – where it can appear as though a Corporation is doing good while conducting problematic activities and having harmful impacts (even on the same people or groups they are purporting to help).

BLUE-WASHING

UNMASKING THE FACADE OF CORPORATE SOCIAL RESPONSIBILITY

? What is Blue-washing?

The making of false, misleading, or exaggerated claim/s about Corporate Social Responsibility (CSR), or the impact that a company, industry, product or service has, particularly as these relate to society, communities, human rights and international obligations.

These practices can create a deceptive impression of ethical and responsible conduct.

Can appear as words, illustrations, logos, or any visual expression on packaging, in advertising, or other product-related communications - including in media, annual reports, or otherwise.

Common Blue-washing Phrases

- "Responsibly sourced"
- "Ethical"
- "Socially responsible"
- "Fair trade"
- "Adheres to international standards"
- "Human rights"
- "Community-focused"

How to Spot Blue-washing

- Vague social responsibility claims
- Absence of verifiable impact data
- Selective disclosure of positive actions
- Use of buzzwords without substantive policies
- Overemphasis on CSR membership¹
- Unsubstantiated References to United Nations, including UN Global
- Compact & Sustainable Development Goals

Harmful Effects on Consumers

- Deceptive portrayal of social responsibility
- Decreases trust in CSR initiatives
- Overshadows authentic CSR initiatives
- Leads to misguided consumer purchasing decisions
- Promotes unethical business practices²

¹ Campaign Asia: <https://www.campaignasia.com/article/ethics-or-charade-the-troubling-truth-of-bluewashing/484603>.

² Al Surf: <https://www.linkedin.com/pulse/blue-washing-slippery-slope-corporate-dominaton-dr-mohammed-al-surf>.

GREENWASHING AND ENVIRONMENTAL-RELATED CLAIMS

At its core, Greenwashing is about the misdirection by companies to appear to be more sustainable than they actually are.⁵⁶⁶ Common tactics considered Greenwashing include words, illustrations, logos, or any visual expression on packaging, in advertising, or other product-related communications - including in media, annual reports, or otherwise.⁵⁶⁷ A common example of Greenwashing found throughout various Corporations, particularly popular fast food restaurants and outlets, is opting for the removals of plastic straws in favour of “strawless lids” which have been found to contain more plastic than the previous plastic straws.⁵⁶⁸

Corporations may also use terms which confuse consumers, by providing seemingly positive attributes about their actions or products. Examples could include “*regenerative grazing*”, “*grass-fed beef*”, which are terms used by Corporations that claim that cows raised for beef are an important part of nature and essential for sustainable ecosystems,⁵⁶⁹ however due to the number of and intensity of production, it has detrimental impacts to the surrounding environment and ecosystems. The use of chicken production as a “*low carbon*” form of animal derived food production in comparison to other forms of animals is another instance which may be deceptive, due to the environmental impacts of the egg and poultry industry. In comparison, there are other forms of foods which are lower in comparison and have other benefits, including alleviating animal welfare concerns.⁵⁷⁰

Without adequate checks and balances, Greenwashing through labelling, use of vague terms and imagery, consumers can be misled to believing that their purchases are not only less environmentally harmful, but might even contribute positively towards the environment and sustainability.⁵⁷¹ It further has a significant impact on the marketplace, and dilutes the ability of corporations truly undertaking sustainable production and/or sourcing practices to get recognition and market share from consumers that align with their values and Responsible Sourcing.⁵⁷²

There is a global shift against Greenwashing. According to a report on the 2022 United Nations Climate Change Conference or Conference of the Parties of the United Nations Framework Convention on Climate Change (“**COP27**”), the United Nations (“**UN**”) Secretary-General stated that “*we must have zero tolerance for net-zero greenwashing*”.⁵⁷³ The UN Integrity Matters: Net Zero Commitments by

⁵⁶⁶ According to <https://www.u4.no/blog/greenwashing-a-form-of-corruption>, Greenwashing “can be a form of corruption or a form of fraud. It damages trust, and undermines public confidence in climate action”.

⁵⁶⁷ Plan A <https://plana.earth/glossary/greenwashing> (accessed on 14 August 2024) and the CPA.

⁵⁶⁸ Surge Activism <https://www.surgeactivism.org/humanewashing> (accessed on 14 August 2024).

⁵⁶⁹ Animal Justice <https://animaljustice.ca/blog/greenwashing> (accessed on 14 August 2024).

⁵⁷⁰ *Ibid.*

⁵⁷¹ A Greener World <https://agreenerworld.org/a-greener-world/beware-greenwashing/> (accessed on 14 August 2024).

⁵⁷² Responsible Sourcing by Corporations involves sourcing materials, products, and/or services from suppliers that have measures in place, such as Internal Policies which they are compliant with, to ensure the ethical treatment of animals and minimise environmental impacts. Rebel Pastures <https://rebelpastures.com/blogs/from-the-pasture/greenwashing-an-in-depth-look-into-the-deception-of-big-ag> (accessed on 14 August 2024).

⁵⁷³ United Nations <https://www.un.org/en/delegate/%E2%80%98zero-tolerance-greenwashing%E2%80%99-guterres-says-report-launch> (accessed on 14 August 2024).

Businesses, Financial Institutions, Cities and Regions report provides a roadmap to bring integrity to net-zero commitments across all industries, including the Egg Industry.⁵⁷⁴ Furthermore, courts across the world are increasingly ruling against Corporations making misleading statements that could be construed as Greenwashing.⁵⁷⁵

Any Corporations, including those operating within the Egg Industry ought to ensure environmental and sustainability claims are clear, accurate, and supported by objective scientifically based evidence and accurate public statements aligned therewith.⁵⁷⁶ Through shedding light on these measures and the environmental impacts of production of animal derived products, including eggs, consumers will be empowered to make informed choices regarding the purchasing of eggs. Consumers are encouraged to support producers and/suppliers that have a proven track record of adherence to sustainability with high levels of transparency into their practices.⁵⁷⁷

⁵⁷⁴ UN https://www.un.org/sites/un2.un.org/files/high-level_expert_group_n7b.pdf (accessed on 14 August 2024).

⁵⁷⁵ Loyens Loeff <https://www.loyensloeff.com/insights/news--events/news/breaking-court-judgment-in-first-dutch-greenwashing-class-action--marketing-claims-klm-are-considered-to-be-misleading/> (accessed on 14 August 2024).

⁵⁷⁶ Norton Rose Fullbright <https://www.nortonrosefullbright.com/en-za/knowledge/publications/e87c69e7/greenwashing-disputes-on-the-rise> (accessed on 14 August 2024).

⁵⁷⁷ *Supra* note 572.

GREENWASHING

SCRUBBING AWAY ENVIRONMENTAL LIES



What is Greenwashing?

The making of false, misleading, or exaggerated claim/s about the impact that a company, industry, product or service has on the environment.

This is often used as an umbrella term to encompass other forms of 'washing' and other problematic practices.

Can appear as words, illustrations, logos, or any visual expression on packaging, in advertising, marketing or other product-related communications - including in media, annual reports, or otherwise.



Common Greenwashing Terms



How to spot Greenwashing

- Unsupported environmental claims
- Vague or ambiguous terms
- Overuse of green (language or colour) in marketing
- Claims inconsistent with company actions
- Unverified eco-certifications
- Complex, unfamiliar ingredient lists²
- Pictures & imagery showing environment, life, cleanliness



Harmful Effects on Consumers

- Misleads consumers, public & other stakeholders
- Delays or undermines global sustainability efforts
- Violates consumer and stakeholder trust
- Skews consumer choices
- Distorts understanding of sustainability
- Affects health & safety³

¹ Adapted definition from ALRSA's Supplementary Report "Scrambling for the Truth: Eggsploring Corporate Hypocrisy and Non-Transparency: Environmental and Consumer Rights in the Egg Industry in South Africa" (2024). Available at: www.eggssouthafrica.org.

² Greenly Institute: <https://greenly.earth/en-us/resources/greenwashing-infographic>.

³ Skel: <https://askelsustainabilitysolutions.com/7-negative-effects-greenwashing-has-on-consumers/>.

HEALTH-WASHING AND HEALTH RELATED CLAIMS

Eggs are often marketed as a healthy protein source with high nutritional value.⁵⁷⁸ This is a marketing tool to encourage consumers to purchase these products while making claims about their impacts on human health. However, such claims are to be contrasted with scientific findings to the contrary, including studies confirming the detrimental impacts of high egg consumption.⁵⁷⁹

The Physician's Committee for Responsible Medicine has compiled various studies illustrating some of the not-so-positive health implications for consuming eggs, including increasing the risk of heart disease, diabetes and cancer.⁵⁸⁰ Specifically, dietary cholesterol in eggs has been linked to a 19% elevation in cardiovascular problems and a potential 68% increase in diabetes risk.⁵⁸¹ Moreover, research indicates that consuming egg yolks accelerates atherosclerosis in a manner comparable to smoking cigarettes.⁵⁸² A 2020 study in SA highlighted significant health concerns associated with egg consumption, revealing the prevalence of Salmonella, Escherichia coli, antimicrobial residues, and antimicrobial-resistant bacteria.⁵⁸³ Layer Hens also face numerous health issues when subjected to intensive farming practices, such as Egg Drop Syndrome,⁵⁸⁴ Caged Layer Fatigue,⁵⁸⁵ and Fatty Liver Syndrome,⁵⁸⁶ and many others which are further aggravated by the routine use of antibiotics in food-producing animals, contributing to the emergence of antibiotic-resistant bacteria.⁵⁸⁷

Health-related claims and feeding programs, particularly in the context of vulnerable groups in society should be met with additional examination, including in relation to children and people living in poverty. Both of these groups have a lower ability to exercise their freedom of choice, for different reasons.

In our Initial Report, we reported that in January 2023, Hy-Line International, together with Hy-Line SA, approached Dr Blessman (of Blessman International),⁵⁸⁸ to cooperate with his feeding program with

⁵⁷⁸ *Supra* note 33 at page 164-165.

⁵⁷⁹ *Supra* note 33 at page 164-165, and Prevention.com <https://www.prevention.com/food-nutrition/healthy-eating/a20435574/study-claims-eggs-are-as-unhealthy-as-smoking/> (accessed on 14 August 2024).

⁵⁸⁰ Physicians Committee for Responsible Medicine <https://www.pcrm.org/good-nutrition/nutrition-information/health-concerns-with-eggs> (accessed on 14 August 2024).

⁵⁸¹ *Ibid.*

⁵⁸² Goldberg, S et al (2014) Egg consumption and carotid atherosclerosis in the Northern Manhattan study. *Atherosclerosis*, 235(2), pp.273-280, accessible at: <https://www.sciencedaily.com/releases/2012/08/120813155640.htm>.

⁵⁸³ Adesiyun, A.A et al (2020). Food safety risk posed to consumers of table eggs from layer farms in Gauteng Province, South Africa: Prevalence of Salmonella species and Escherichia coli, antimicrobial residues, and antimicrobial resistant bacteria. *Journal of Food Safety*, 40(3), p.e12783, accessible at: <https://onlinelibrary.wiley.com/doi/abs/10.1111/jfs.12783>.

⁵⁸⁴ Poultry World <https://www.poultryworld.net/topic/egg-drop-syndrome-eds-76/#> (accessed on 14 August 2024).

⁵⁸⁵ Veterinaria Digital <https://www.veterinariadigital.com/en/articulos/cage-fatigue-syndrome-the-importance-of-prevention/> (accessed on 14 August 2024).

⁵⁸⁶ Roy's Farm <https://www.roysfarm.com/common-diseases-in-laying-hens/> (accessed on 14 August 2024).

⁵⁸⁷ *Supra* note 12.

⁵⁸⁸ Blessman International is an organisation that is focused on an organisation which focuses on several issues including feeding children, accessible at <https://www.googleadservices.com/pagead/>.

the purpose to add “an-egg-a-day” to the feeding program to “*further enhance his efforts by enhancing the nutritional content of the meals*”.⁵⁸⁹ This means that beneficiaries of the program, who receive daily meals consisting of a basic grain and vegetable-based diet, would now receive eggs too.

The “Eggs are Magic” campaign mentioned on the SAPA website and in the Industry Component in Section II of our Initial Report was reported to be directed at school children and their mothers, and features a through-the-line mix combining activations and industrial theatre, competitions, mobile media, radio and giveaways, all of which are designed to showcase the versatility of eggs.⁵⁹⁰

While we do not claim the abovementioned examples to be Health-washing, they are included to illustrate how initiatives include messaging that eggs are healthy, or nutritional, and how eggs are provided and/or marketed to those that might have limited access to information regarding the potential negative impacts of egg consumption and limited freedom of choice.

Health-related claims should be carefully considered, particularly where products produced are linked with diseases. The listeriosis outbreak in SA, which was the world’s largest ever outbreak of food-borne disease listeria, with a death toll of 204 people⁵⁹¹ resulted in safety recalls and class action lawsuits.⁵⁹²

⁵⁸⁹ Poultry Producer <https://www.poultryproducer.com/hy-line-launches-partnership-to-provide-egg-protein-to-malnourished-african-children/> (accessed on 14 August 2024). *Supra* note 33 at page 179.

⁵⁹⁰ Bizcommunity <https://www.bizcommunity.com/Article/196/179/61647.html> (accessed on 14 August 2024).

⁵⁹¹ Yahoo <https://uk.news.yahoo.com/death-toll-listeria-outbreak-south> (accessed on 14 August 2024).

⁵⁹² Gumede N 2024 *A critical analysis of compensation claims based on injuries caused by food contamination/food poisoning: A case study of the Listeriosis outbreak in SA*, accessible at <https://www.researchgate.net/publication/377297170>.

HEALTH-WASHING

DIAGNOSING DECEIT BY CORPORATIONS AROUND WELLBEING

What is Health-washing?

The making of false, misleading or exaggerated claim/s about the impact that a company, industry, product or service has on consumer or public health.¹

Can appear as words, illustrations, logos, or any visual expression on packaging, in advertising, or other product-related communications - including in media, annual reports, or otherwise.

Common Health-washing Terms/ Phrases

- “Healthy”
- “Good for you”
- “Clean”
- “Safe”
- “Unprocessed”
- “Goodness”
- “Heart healthy”
- “Health”
- “Fresh”

And even the misuse of legally defined terms such as
Natural | Organic



How to Spot Health-washing²

- Exaggerated health benefit claims
- Omission or downplaying of negative health impacts
- Vague / unsubstantiated health-focused terms
- Misuse of legally defined terms / slightly altered terms

¹ Adapted definition from ALRSA's Supplementary Report "Scrambling for the Truth: Eggsploring Corporate Hypocrisy and Non-Transparency: Environmental and Consumer Rights in the Egg Industry in South Africa" (2024). Available at: www.eggssouthafrica.org.

² Health Desk: <https://health-desk.org/articles/what-is-health-washing-and-what-does-the-label-real-food-mean-to-consumers>.

HUMANE-WASHING AND ANIMAL-RELATED CLAIMS

Humane-washing is a significant concern particularly as it relates to animal use industries. In the context of animal agriculture, and the Egg Industry in particular, it may result in Cruel Practices – such as Battery Cages and the culling of male Chicks (among others). Corporations with misleading labelling, advertisement and marketing campaigns emphasising the “*humane*” and/or “*natural*” conditions of animals in their supply chains may endure suffering and harm behind closed doors.⁵⁹³

Consumers are becoming increasingly aware of the realities of their products, including the treatment of animals due to exposés (through undercover investigations, documentaries, reports, research, publications, news articles, social and other forms of media). Growing awareness often comes with demands to do better in terms of animal welfare. In animal agriculture specifically, businesses are facing growing public pressure to change their business practices with enhanced considerations of animals.⁵⁹⁴

Corporations are gradually appreciating animal protection as a concern of their consumers: in some instances making genuine efforts to improve practices, and in others, rather incorporating messaging and claims to create the impression that they are in fact conducting their business activities in a humane manner.⁵⁹⁵ Examples of this include depictions of farmed animals, including Layer Hens in open pastures and freely grazing, while in reality, many of these Layer Hens are in caged confinement, or confusing messaging.

Corporations may opt to use vague and broad terms such as “*humane*”, “*kind*” or “*kinder*”, “*natural*”, “*responsibly raised*” or “*humanely raised*”, “*happy animals*”, “*high welfare*”, “*ethical*”. Such terms often have no legal meaning or required standards that need to met in order to use them, but still elicit positive reactions from consumers when they see or hear them.

Corporations may also make vague statements such as “*we have high / the highest animal welfare standards*” or “*animal welfare is the most important thing on our farm*” or “*we care about our animals*”, which are not measurable against objective standards,⁵⁹⁶ but similarly elicit positive reactions.

Humane certification allows producers and Corporations to potentially promote the illusion of animal well-being while hiding the continued suffering of animals.⁵⁹⁷ It further leads to consumer confusion and uncertainty.

Other examples may include certifications from / membership with entities that condone Cruel Practices,⁵⁹⁸ including in their standards.

⁵⁹³ *Supra* note 538.

⁵⁹⁴ Green Matters <https://www.greenmatters.com/big-impact/humane-washing> (accessed on 14 August 2024).

⁵⁹⁵ *Ibid.*

⁵⁹⁶ *Supra* note 538.

⁵⁹⁷ *Supra* note 556.

⁵⁹⁸ Faunalytics <https://faunalytics.org/the-case-against-humane-food-labels/> (accessed on 14 August 2024).

The use of these depictions, terms, statements, or certifications have the potential to mislead consumers into believing the eggs they purchase do not harm the Layer Hens who are forced to produce these products.⁵⁹⁹

86% of all hens utilised for eggs in South Africa, are raised in Battery Cages.

Certain stakeholders (Selected Stakeholders and Phase 2 Selected Stakeholders) confirmed that they sell eggs and egg products from Layer Hens who are kept in Battery Cages and subjected to Cruel Practices such as the culling of day-old male chicks, de-toeing, and de-beaking.

According to regulations, in South Africa, egg containers “*may*” indicate the production methods used, such as whether the eggs come from Layer Hens housed in “cages,” “barns,” or are “free-range”.⁶⁰⁰ Such labelling aims to enhance consumer awareness and empower informed purchasing decisions. Such labelling aims to enhance consumer awareness and empower informed purchasing decisions. However, because the labelling of production methods is not mandatory, this can lead to consumer confusion. Moreover, even if these terms are included on egg packaging, they may still be misleading for consumers who are unfamiliar with their specific definitions. For example, even when eggs are labelled as “free-range,” Layer Hens may be kept indoors for a maximum continuous period of 24 weeks during a year during Avian Flu outbreaks.⁶⁰¹ “Cage-free hens” may also be kept indoors.

To empower consumers to make ethical and informed choices, it is essential that they have access to accurate and mandatory information about production methods, associated practices, animal welfare standards, and the true meanings of various terms. In the recommendations section of this report (Section IV), we propose making the labelling of production methods compulsory to enhance consumer rights and transparency. Additionally, we call for greater clarity regarding the terminology used in egg labelling to ensure that consumers fully understand what these terms entail.⁶⁰²

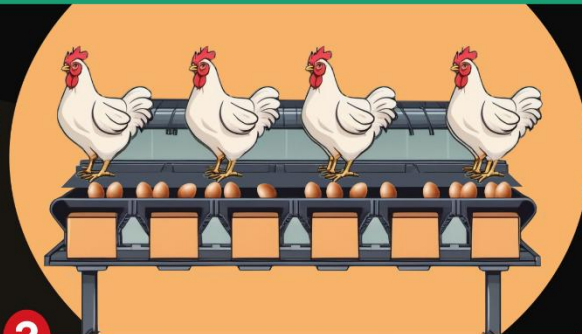
⁵⁹⁹ Green Matters <https://www.greenmatters.com/big-impact/humane-washing> (accessed on 14 August 2024).

⁶⁰⁰ *Supra* note 493.

⁶⁰¹ *Ibid.*

HUMANE-WASHING

ANIMAL AGRICULTURE'S DIRTY LITTLE SECRET



What is Humane-washing?

The making of false, misleading or exaggerated claim/s about the treatment of animals or the conditions in which they are born, raised, transported, or killed, creating the (false) impression that animals are treated with compassion or in an ethical manner¹

Can appear as words, illustrations, logos, or any visual expression on packaging, in advertising, or other product-related communications - including in media, annual reports, or otherwise



Common Humane-Washing Terms

"humane" | "kind or kinder" | "natural" | "responsibly" / "naturally or humanely or responsibly or raised" | "happy animals" | "high / higher welfare" | "ethical" | "care" | "stress free" | "humanely treated"



How to Spot Humane-washing

- Vague animal treatment claims
- Unspecified animal welfare priorities
- Idealised animal imagery on packaging/advertising/ statements²



Harmful Effects on Consumers

- Misleads purchasing decisions
- Misrepresents welfare standards
- Obscures genuine certifications
- Hinders genuine welfare progress
- Violates consumer trust³

¹ Adapted definition from ALRSA's Supplementary Report "Scrambling for the Truth: Eggsploring Corporate Hypocrisy and Non-Transparency: Environmental and Consumer Rights in the Egg Industry in South Africa" (2024). Available at: www.eggssouthafrica.org.

² New Roots Institute: <https://www.newrootsinstitute.org/articles/what-is-humane-washing-is-certified-humane-legit>.

³ Farm Forward: <https://www.farmforward.com/publications/humanewashings-effect-on-consumers/>.

Corporate Question 2: Why should Corporations care about consumer opinion and awareness?

Corporations owe obligations to their consumers and are bound by constitutional and legislative provisions which regulate their activities. Outside of legal duties and responsibilities, consumer perception plays a significant role in Corporations' reputation, impacting their market share, profitability, financial success and sustainability.

Corporations may undertake misleading activities in the form of Corporate Hypocrisy to draw and keep consumers purchasing their products or services, however, such activities present a significant business risk that may implicate their triple bottom line.⁶⁰³

There is an increase in court litigation in respect of Corporate Hypocrisy being undertaken across the world. According to the Sabin Center's Climate Change Litigation Databases, 210 cases have been brought to courts across the world in respect of climate change against corporations.⁶⁰⁴ This includes jurisdictions such as Germany,⁶⁰⁵ France,⁶⁰⁶ Netherlands,⁶⁰⁷ and the UK.⁶⁰⁸ The US further has increasing litigation in respect of Corporations and actions undertaken harming animals and the environment by advocacy groups.⁶⁰⁹ These and other matters are indicative of the necessity of Corporations to make statements that are aligned with their actions and are indicative of the true sustainability practices of these corporations.

In addition to litigation, Corporations which are exposed for bad practices can lose consumer support. A prominent example is the "the Blackfish Effect". A documentary was released in 2013 providing insight into killer whale entertainment, particularly at SeaWorld, displaying cruel practices towards these animals resulting in their suffering. As a result of this documentary, SeaWorlds stocks significantly declined, and

⁶⁰³ The triple bottom line theory refers to conventional business success metrics to include an organisations social well-being, environmental health and a just economy. It is often referred to as the "Triple P's: People, planet and Prosperity. More information on the triple bottom line is accessible at <https://uwex.wisconsin.edu/stories-news/triple-bottom-line/>.

⁶⁰⁴ These exclude matters arising in the United States. Grantham Institute <https://www.lse.ac.uk/granthaminstitute/publication/global-trends-in-climate-change-litigation-2024-snapshot/> (accessed on 14 August 2024).

⁶⁰⁵ Sabin Centre for Climate Change Law <https://climatecasechart.com/non-us-case/higher-regional-court-of-frankfurt-am-mains-decision-on-climate-neutral-claims-regarding-detergents/> (accessed on 14 August 2024); Sabin Centre for Climate Change Law <https://climatecasechart.com/non-us-case/deutsche-umwelthilfe-v-netto-marken-discount-stiftung-co-kg/> (accessed on 14 August 2024); and Sabin Centre for Climate Change Law <https://climatecasechart.com/non-us-case/deutsche-umwelthilfe-v-hellofresh-deutschland/> (accessed on 14 August 2024), among others.

⁶⁰⁶ Sabin Centre for Climate Change Law <https://climatecasechart.com/non-us-case/bloom-and-others-v-totalenergies/> (accessed on 14 August 2024).

⁶⁰⁷ Sabin Centre for Climate Change Law <https://climatecasechart.com/non-us-case/milieudedefensie-v-ing-bank/> (accessed on 14 August 2024).

⁶⁰⁸ Sabin Centre for Climate Change Law <https://climatecasechart.com/non-us-case/asa-ruling-on-lufthansa-complaint-no2-in-2023/>, <https://climatecasechart.com/non-us-case/asa-ruling-on-air-france-klm/> (accessed on 14 August 2024), Sabin Centre for Climate Change Law <https://climatecasechart.com/non-us-case/asa-ruling-on-charles-tyrwhitt-shirts-ltd/> (accessed on 14 August 2024).

⁶⁰⁹ Animal Law Conference <https://www.animallawconference.org/wp-content/uploads/2023/11/christine-ball-blakely-presentation-alc23.pdf> (accessed on 14 August 2024).

the Corporation has seen a major drop in attendance.⁶¹⁰ This ultimately led to policy decisions of the Corporation to end its captive whale breeding program and drove legislative reform across the world for aquatic mammals in captivity.

The misuse of claims can lead to harsher regulations on Corporations in their dealings with consumers and the public at large. For instance, in the US, the Animal Legal Defence Fund (“ALDF”) submitted its comments to the US Department of Agriculture’s Food Safety and Inspection Service in support of a petition to prohibit the use of “*climate-friendly*” claims or similar such claims on beef products.⁶¹¹ Additionally, it required that laws would be enacted that would, in theory, compel corporations to act more diligently in their dealings as they relate to the environment.⁶¹²

Corporate Question 3: What actions could (and should) be undertaken by Corporations to appease these concerns?

Corporations can address these concerns in various ways, tangible recommendations are provided for in further detail in Section IV. First and foremost, Corporations, including those in the Egg Industry, should adopt a transparent approach to their business activities and operations, and the impacts thereof. This is due to the potential impact on fundamental rights, and in recognition that the activities which they undertake are a matter of public interest.

The courts have been instrumental in confirming the influence of public interest with regard to transparency in issues of animal protection, with increasing emphasis placed on animal welfare, environmental protection and corporate transparency and accountability. In *Smuts and Another v Botha*,⁶¹³ the judgment handed down by the Supreme Court of Appeal (“SCA”) is a benchmark case for consumer protection as it relates to animal welfare. This matter related to a farmer who trapped animals (including baboons) in cages and fed them poison on his private farm. Cyclists taking part in a competition that crossed through part of the farm came across the animals and took pictures. The cyclists, with the support of animal activists, took to social media to put the farmer on blast for committing cruelty to animals. A legal dispute arose where the farm owner and activists clashed over allegations of defamatory statements and invasion of privacy. The SCA ruled that the farm owner had made his personal information public by posting it on social media voluntarily. Consequently, the court found the farm owner’s case against the activists to be weak. Moreover, the court criticised the farm owner’s treatment of non-human animals and regarded his actions as “vile”. Importantly, the court underscored consumers’ right to be informed about business owners’ ethical practices towards animals when making purchasing decisions, marking a significant development in animal law adjudication. This case cemented that consumers have an interest in animal welfare and should be made aware of corporate practices.

⁶¹⁰ My Green World <https://www.mygreenworld.org/blog/the-blackfish-effect> (accessed on 14 August 2024).

⁶¹¹ ALDF <https://aldf.org/case/urging-fsis-to-ban-use-of-climate-friendly-claims-on-beef-products/> (accessed on 14 August 2024).

⁶¹² See for instance, the Growing Climate Solutions Act, accessible at <https://washingtonmonthly.com/2023/06/19/greenwashing-big-ag/>.

⁶¹³ *Supra* note 144.

In the context of requesting a Corporation to provide access to information about its environmental harms and risks to community members, the SCA has further confirmed in *ArcelorMittal SA* that:

“Corporations operating within our borders, whether local or international, must be left in no doubt that in relation to the environment...there is no room for secrecy and that constitutional values will be enforced”.⁶¹⁴

These and other cases are evidence of a growing trend towards transparency by Corporations in respect of animal, environmental and consumer protection and as intertwined concepts.

Corporate Accountability and Transparency⁶¹⁵ are powerful concepts for consumers to understand as they have the power to influence how food is produced, and the overall sustainability of food supply chains.⁶¹⁶ Transparency in the form of positive disclosures made voluntarily illustrate an attitude of openness. In the absence of mandatory legal standards of disclosure and reporting, Corporations may choose to provide data to assist stakeholders with better understanding their operations. Going a step further, they can initiate awareness and education programs to ensure information is understood. Outside of making disclosures, when Corporations receive requests for information, either through formal legal requests like PAIA, and other correspondence, responding in a positive manner promotes a culture of integrity. Internally, they can ensure that stakeholders feel safe to highlight problematic practices through implementing whistleblower protection programs.

Corporations have responsibilities to not employ tactics that amount to as Corporate Hypocrisy, and should avoid and refrain from making claims and statements which might lose consumer trust. Corporations are required to act with honesty and specificity and further substantiate their claims with concrete, and expert led evidence.⁶¹⁷ Furthermore, Corporations are required to take immediate action on their sustainability goals and provide a well laid out plan in the achievement of these sustainability goals.⁶¹⁸ This should further be in alignment with messaging and marketing efforts of these Corporations.

To govern the forms of washing discussed above and other harmful consumer practices, SA has introduced consumer protection laws, as further discussed in Part C below.

⁶¹⁴ *Supra* note 211. For a case summary as it relates to our Project, see *supra* note 33 at page 64.

⁶¹⁵ Serr <https://serr.co.za/the-importance-of-transparency-and-accountability-as-per-the-companies-act> (accessed on 14 August 2024). More cases related to the various forms of washing accessible at Grantham Research Institute <https://www.lse.ac.uk/granthaminstitute/publication/global-trends-in-climate-change-litigation-2024-snapshot/> (accessed on 14 August 2024).

⁶¹⁶ Egels-Zandén, N and Sörum, N “Supply Chain Transparency as a Consumer or Corporate Tool: The Case of Nudie Jeans C” (2015) accessible at: https://www.researchgate.net/publication/276342494_Supply_Chain_Transparency_as_a_Consumer_or_Corporate_Tool_The_Case_of_Nudie_Jeans_Co.

⁶¹⁷ *Ibid.*

⁶¹⁸ According to <https://www.pwc.co.za/en/assets/pdf/sustainable-development-goals-south-africa-focus.pdf>, people in SA with businesses should “align their corporate social responsibility initiatives towards ensuring that the [Sustainable Development Goals] goals are achieved”.

PART C: LAYING DOWN THE LAW

Various laws, standards, and policies govern and promote consumer rights and protections in SA. In the context of the Egg Industry, these include the CPA, the Agricultural Products Standards Act (“**APSA**”);⁶¹⁹ and its Regulations related to the Grading, Packing and Marking of Eggs Intended for Sale in the Republic of SA (“**Egg Labelling Regulations**”);⁶²⁰ the Marketing of Agricultural Products Act (“**MAPA**”);⁶²¹ and Codes of the Advertising Regulatory Board.⁶²² For purposes of this Supplementary Report, we briefly discuss the legislation and regulations related to consumer protection, with a particular focus on how these intersect with Corporate Hypocrisy, and transparency and accountability issues. Some legislation discussed under this Pillar falls under the mandate of the Department of Trade, Industry and Competition (“**DTIC**”), while other legislation is implemented by Department of Agriculture, Land Reform and Rural Development (“**DALRRD**”).

In addition to the abovementioned South African laws exist international and foreign law frameworks which influence SA law, dedicated bodies to advancing consumer rights soft law standards.

OVERVIEW OF CONSUMER PROTECTION LAW IN SOUTH AFRICA

In the Initial Report, we briefly introduced selected legislation and policies as they relate to consumer protection, with a particular focus on animal welfare. In this Supplementary Report, our analysis focuses on environmental aspects, with some inclusion on animal and health-related aspects.

Strengths of Consumer Protection Law in SA

South African law contains some robust protections for consumers, including in the CPA, which includes the establishment of a comprehensive legal framework that promotes fair and responsible business practices.⁶²³ The CPA empowers consumers by recognising fundamental rights such as the right to equality, privacy, and fair treatment in the marketplace.⁶²⁴ Consumer protection laws also aim to protect vulnerable groups, such as low-income consumers and those with limited literacy, by ensuring

⁶¹⁹ Agricultural Products Standards Act 119 of 1990 (“APSA”) <https://www.gov.za/documents/agricultural-product-standards-act-6-mar-2015-1127>.

⁶²⁰ *Supra* note 493.

⁶²¹ Marketing of Agricultural Products Act 47 of 1996 (“MAPA”), accessible at <https://www.gov.za/documents/marketing-amendment-act>.

⁶²² Advertising Regulatory Board (“ARB”) <https://www.arb.org.za/phone/codes.html> (accessed on 14 August 2024).

⁶²³ Banking Association of SA <https://www.banking.org.za/consumer-information/consumer-information-legislation/consumer-protection-act/> (accessed on 14 August 2024).

⁶²⁴ Ss 8 and 11 of the CPA.

access to goods and services and providing mechanisms for dispute resolution and redress.⁶²⁵ Furthermore, consumer protection law encourages transparency and accountability from suppliers, which fosters consumer confidence and promotes responsible consumer behaviour.⁶²⁶

Weaknesses of Consumer Protection Law in SA

There are notable weaknesses in the implementation and effectiveness of consumer protection laws in SA. One significant challenge is the limited awareness and understanding of consumer rights among the general population, particularly vulnerable groups.⁶²⁷ This lack of knowledge can hinder consumers from effectively exercising their rights or seeking redress when faced with unfair practices.⁶²⁸ Additionally, enforcement of the CPA can be inconsistent, with the NCC facing resource constraints that limit its ability to monitor compliance and address violations adequately.⁶²⁹ Moreover, while the CPA aims to reduce disadvantages for vulnerable consumers, its reliance on information disclosure alone may not empower all consumers, especially those who may not fully comprehend the information provided.

CONSUMER PROTECTION LAWS APPLICABLE TO THE EGG INDUSTRY

Consumer protection law governs the Egg Supply Chain's impacts on consumer rights and interests. Our PAIA requests sought various records related to these laws. Responses received from Phase 2 Selected Stakeholders helped shape our Supplementary Rating Criteria and Indicators. In this section, we examine relevant legislation to understand the rationale for their inclusion in our PAIA requests.

CPA

The CPA, as the name suggests, was established to protect consumers and their interests in a number of ways, including protecting consumer vulnerability which is caused by high levels of poverty, illiteracy and other forms of social and economic inequality.⁶³⁰ Eggs fall squarely under the ambit and definition of “goods” regulated by the CPA, and therefore all relevant provisions of the CPA apply to the Egg Industry (as suppliers thereof) and members of the public as consumers (purchasers thereof), as

⁶²⁵ Ngcobo, M.T (2024) "Artificial Intelligence and Blockchain Technologies in Online Dispute Resolution: A Solution to Consumer Disputes in South Africa?" PER / PELJ 2024(27), accessible at: <http://dx.doi.org/10.17159/1727-3781/2024/v27i0a14648>.

⁶²⁶ Labour Guide <https://labourguide.co.za/general/the-consumer-protection-act-your-guide-to-consumer-rights-a-how-to-protect-them> (accessed on 14 August 2024).

⁶²⁷ Mason, R.B., 2007. Consumer protection awareness in South Africa, accessible at: https://www.researchgate.net/publication/32116517_Consumer_Protection_Awareness_in_South_Africa.

⁶²⁸ *Ibid.*

⁶²⁹ Department of Science and Innovation <https://thenc.org.za/wp-content/uploads/2023/06/HSRC-Report-Attitudes-towards-consumer-rights-and-protection.pdf> (accessed on 14 August 2024).

⁶³⁰ The preamble to the CPA.

appropriate.⁶³¹ The CPA provides that consumers must be able to make informed decisions on their purchases, and prohibits consumers from being misled by Corporations.

With the growing emphasis on environmental issues and concerns about Greenwashing, and animal issues and concerns about Humane-washing, the CPA remains crucial in safeguarding consumers from Corporations engaging in Corporate Hypocrisy.

The CPA explicitly prohibits the marketing of any goods in a manner that is likely to imply a false or misleading or otherwise fraudulent in nature.⁶³² This relates to claims made in respect of the nature, properties, advantages, or uses of such goods or any other material aspects of such goods.⁶³³ The CPA however fails to define the terms “false”, “misleading”, or “deceptive” creating a potential gap within the law which Corporations may use to skirt this prohibition.⁶³⁴

NCC

The NCC, established under s 85 of the CPA, serves as a regulatory body dedicated to protecting consumer interests.⁶³⁵ Its key functions include resolving disputes between consumers and suppliers, investigating suppliers accused of prohibited conduct, referring cases to the National Consumer Tribunal,⁶³⁶ and promoting compliance with the CPA through advocacy and education.⁶³⁷ The NCC also ensures consumer safety by managing the recall of potentially hazardous goods. The CPA grants consumers fundamental rights, in line with the Constitution and UNGCP, and any violation of these rights constitutes non-compliance, allowing consumers to file complaints with the NCC.⁶³⁸

The CPA provides that the NCC may consider appropriate foreign and international law, and appropriate international conventions, declarations or protocols when making decisions relating to consumer protection.⁶³⁹ As such, despite the NCC not publishing any specific rules or regulations relating to Green-; Blue-; Health-, or Humane-washing respectively, in instances where a claim is considered “false”, “misleading” or “deceptive”, reference may be made to foreign precedent. This is particularly significant as in other jurisdictions, “green”, “ecological”, and “net-zero” claims must be clearly substantiated and fully explained to consumers.⁶⁴⁰ Examples of foreign laws and cases are included further below.

⁶³¹ Throughout the CPA for all provisions, both goods and services are mentioned, although each also have particular sections which apply to them only. For example, in relation to goods, s 43 - Pyramid and related schemes - is applicable.

⁶³² s 29 of the CPA.

⁶³³ s 29(i) and (v) of the CPA.

⁶³⁴ *Supra* note 113 above.

⁶³⁵ The National Consumer Commission (“NCC”) <https://thencc.org.za/> (accessed on 14 August 2024).

⁶³⁶ The National Consumer Tribunal <https://www.thenct.org.za/> (accessed on 14 August 2024).

⁶³⁷ *Ibid* and s 92 of the CPA.

⁶³⁸ *Ibid*.

⁶³⁹ s 2 of the CPA.

⁶⁴⁰ *Supra* note 113 above.

APSA and Egg Labelling Regulations

The labelling of eggs and other products in SA is regulated in terms of the APSA and more specifically, the Egg Labelling Regulations. According to the regulations, eggs “may” be labelled as “free range”,⁶⁴¹ “barn” eggs,⁶⁴² or “cage” eggs⁶⁴³ if their production meets specific requirements in these regulations. Therefore, including the production method of eggs is not mandatory in South Africa as it is in other countries and jurisdictions around the world, such as the EU and the UK.⁶⁴⁴

The APSA and Egg Labelling Regulations are significant in ensuring consumer awareness and promoting improved standards of consumer information, through the promotion of transparent labelling.⁶⁴⁵ It is particularly useful in addressing Corporate Hypocrisy by Corporations. S 6 of the APSA states:

“No illustration, depiction, logo or other method of visual expression that constitutes a misrepresentation, or either directly or by implication creates or may create a misleading impression regarding the contents, quality, origin, grade, size group, production method or diet shall be indicated on a container or outer container containing eggs”.

This section concerning misleading labelling is of import in that it would, in theory, prohibit role-players in the Egg Industry from labelling their egg and/or egg related products as “humane”, “sustainable”, or “health conscious” if these are not accurate claims.

The Egg Labelling Regulations promulgated in terms of the APSA further restrict what can be displayed on the outer container of eggs.⁶⁴⁶ These restrictions also have potential implications for the prevention of Corporate Hypocrisy. For example, Regulation 13(1)(a) states (emphasis added):

“No name, mark or any other method of expression using the following words or wording shall be indicated on a container or outer container containing eggs: ...

*(ii) A message of veterinary medicine-free **or which indicates the more humane treatment or rearing of poultry or which creates an impression that the eggs are safer or that poultry was fed a special diet such as, but not limited to, ‘antibiotic free’, ‘fed a diet free of hormones’.***

⁶⁴¹ S 8(2)(a) of the Egg Labelling Regulations.

⁶⁴² s 8(3) of the Egg Labelling Regulations.

⁶⁴³ s 8(4) of the Egg Labelling Regulations.

⁶⁴⁴ Euro Group for Animals <https://www.eurogroupforanimals.org/what-we-do/areas-of-concern/method-production-labelling> (accessed on 14 August 2024). Conservative Animal Welfare Foundation <https://www.conservativeanimalwelfarefoundation.org/campaigns/mandatory-labelling/> (accessed on 14 August 2024).

⁶⁴⁵ The Egg Labelling Regulations.

⁶⁴⁶ *Ibid.*

‘cage free’, ‘furnished cage’, ‘safe’, ‘pure’, ‘grass fed’, ‘pasture fed’, ‘forage fed’, ‘canola fed’, ‘grain fed’, ‘mixed grain’, ‘organic’,

(iii) Any other wording not addressed in sub-paragraphs (i) and (ii) above that constitutes a misrepresentation or either directly or by implication creates or may create a misleading impression regarding the contents, quality, origin, grade, size group, production method or diet”.

These restrictions are limited as they do not speak to the advertising and marking of eggs, only the outer packaging. This creates a gap which allows Corporations may therefore continue to market and advertise eggs and egg related products with the abovementioned claims, including “humane”, “sustainable” and/or “healthy” outside of labelling.

Egg regulations, such as those related to “free range” claims, play a crucial role in protecting consumer interests and animal welfare.⁶⁴⁷ However, another limitation of the Egg Labelling Regulations is that the indication of production methods—whether eggs come from “cage”, “barn”, or “free range” hens—is not mandatory. Producers may choose not to disclose that their eggs are sourced from caged hens, as such a label could limit or prevent sales. Consequently, without a requirement to include this information in the regulations, the option to label production methods on egg packaging is largely ineffective in empowering consumers to make informed choices. As recommended in this report (Section IV), production method labelling requirements should be made mandatory to enhance consumer protection and prevent misleading marketing practices. Coupled with strict enforcement of these mandatory regulations, and strong consequences for non-compliance, such changes would ensure that producers adhere to established standards and that consumers can trust the claims made on egg cartons.⁶⁴⁸

MAPA

The purpose of the MAPA is to authorise the establishment and enforcement of measures to intervene in the marketing of agricultural products; including the introduction of levies on agricultural products; to establish the NAMC; and to provide for matters connected therewith.⁶⁴⁹ S 15 of the MAPA allows for the introduction of levies subject to certain conditions being met. This has led to the development of regulations which introduced statutory levies to be paid on all eggs sold in the country to the SAPA.⁶⁵⁰

The Egg Levy Regulations

⁶⁴⁷ *Supra* note 33 at page 43.

⁶⁴⁸ Food Advisory Consumer Service <https://foodfacts.org.za/labelling/> (accessed on 14 August 2024).

⁶⁴⁹ The MAPA.

⁶⁵⁰ *Ibid.*

In terms of the statutory levy regulations on eggs,⁶⁵¹ a levy is payable on “table eggs and egg products” being non-fertile eggs of the species *gallus domesticus* for domestic consumption.⁶⁵² The statutory levy regulations state (emphasis added):⁶⁵³

*“The purpose and aim of this statutory measure is to **compel establishments selling table eggs to the trade to register with the levy administrator** [namely SAPA]. This is necessary to ensure all role-players have access to market information which is an essential ingredient in any agricultural development, **access to accurate market information** is very crucial in any decision-making process. Continuous and accurate market information relating to eggs sold to the trade should be available to all market participants.”*

In respect of levies collected from the sale of eggs, they should be used as follows (emphasis added):

- a) *Approximately 70% of the funds are required to be used for functions relating to **consumer communication and education, consumer assurance, research, industry information and liaison and production development**;*
- b) *At least 20% of the funds are required to be used for **transformation**; and*
- c) *Not more than 10% of the funds may be used for **administrative costs**”.*⁶⁵⁴

Below contains an extract of the amount of levies to be paid per sale of eggs:⁶⁵⁵

AMOUNT OF LEVY

	Dozen of Table Eggs
From 1 April 2022 to 31 March 2023	R0,018 (VAT excluded)
From 1 April 2023 to 31 March 2024	R0,018 (VAT excluded)
From 1 April 2024 to 31 March 2025	R0,018 (VAT excluded)
From 1 April 2025 to 31 March 2026	R0,018 (VAT excluded)

This levy appears to cement the role of SAPA (discussed in further detail below and in the Initial Report) as the primary mouthpiece for the Egg Industry. Through these statutory levies, SAPA is empowered with financial resources to promote the Egg Industry including by obtaining research and communicating and educating consumers. However, as an industry body, SAPA may tend towards representing the interests of its members, over the public interest. This can have the effect that

⁶⁵¹ MAPA: Continuation of Statutory Levies on Table Eggs as prescribed by Regulation R345, as amended and on Egg Products sold to the Trade and Determination of Guideline Price 45771; 1680 Marketing of Agricultural Products Act (47/1996), accessible at: https://www.gov.za/sites/default/files/gcis_document/202201/45771gon1679.pdf .

⁶⁵² *Ibid.*

⁶⁵³ *Ibid.*

⁶⁵⁴ *Ibid.*

⁶⁵⁵ *Ibid.*

consumers are not educated or made aware of any negative aspects associated with the Egg Industry, including in relation to animal treatment, environmental impacts and even human health. As discussed in further detail in Part D below, research initiated by SAPA which impacts on consumer rights and choices is not made publicly available. These inhibit the ability of consumers to make informed choices and raise concerns around the role and power of SAPA.

Competition Act⁶⁵⁶

Corporate Hypocrisy has the potential to give rise to common law claims based on unlawful competition. Issues pertaining to competition are regulated by the Competition Act.⁶⁵⁷

The Competition Act was enacted to, among other things, provide for markets in which consumers have access to, and can freely select the quality and variety of goods and services they desire, and to restrain trade practices which undermine a competitive economy.⁶⁵⁸ While the Competition Act does not directly regulate Greenwashing or other forms of Corporate Hypocrisy, it contains measures upon which Corporations could hold their competitors accountable for such behaviours.⁶⁵⁹

The Competition Act allows for the possibility for a complaint being filed by a competitor in relation to conduct involving misleading claims made by a Corporation regarding their sustainability or related matters.⁶⁶⁰ For instance, s 8 of the Competition Act provides for abuse of dominance prohibitions and could be used in an instance of a dominant Corporation committing Corporate Hypocrisy. This would, however, depend on the facts and would require that such activity constitute an exclusionary act. An act is exclusionary if it impedes or prevents a competitor from entering into, or expanding within, a market.⁶⁶¹

The CCSA

The CCSA is a statutory body constituted in terms of the Competition Act.⁶⁶² It is empowered to investigate, control, and evaluate restrictive business practices, abuse of dominant positions and mergers, in order to achieve equity and efficiency in the SA economy.⁶⁶³ The CCSA is one of three such bodies, the other two being the Competition Tribunal (“**Tribunal**”)⁶⁶⁴ and the Competition Appeal Court (“**CAC**”).⁶⁶⁵ The CCSA is responsible for the investigating and prosecuting agency in respect of matters

⁶⁵⁶ The Competition Act 89 of 1998 (“Competition Act”), accessible at https://www.gov.za/sites/default/files/gcis_document/201409/a89-98.pdf.

⁶⁵⁷ *Ibid.*

⁶⁵⁸ *Ibid.*

⁶⁵⁹ *Ibid* at ss 4 and 8.

⁶⁶⁰ *Ibid* at s 41.

⁶⁶¹ *Ibid* at s 1(viii).

⁶⁶² *Ibid* at s 19.

⁶⁶³ *Ibid* at s 21.

⁶⁶⁴ *Ibid* at s 26.

⁶⁶⁵ *Ibid* at s 36.

related to competition while the Tribunal is the court.⁶⁶⁶ The CAC hears appeals against decisions of the Tribunals.

Earlier this year, the CCSA initiated a process into the poultry industry as “*it has reason to believe there are features in the poultry market that may impede, distort or restrict competition.*”⁶⁶⁷ This inquiry aims to ensure fair practices and prevent monopolistic behaviours that could negatively impact consumers.

CONSUMER PROTECTION REGULATORY BODIES

Ensuring good consumer practices such as ensuring accurate labelling, marketing and advertising and to inform consumers is vital for consumer protection in the Egg Industry.⁶⁶⁸ In addition to those bodies mentioned above, several statutory and/or industry bodies play a role in ensuring consumer protection and Corporate Accountability.

PAIA Request: Consumer Protection Regulatory Bodies

We requested records demonstrating whether the Phase 2 Selected Stakeholders and/or their suppliers have been reported to advertising standards agencies or regulatory bodies, such as the ARB, the Advertising Standards Authority (“ASA”), the CCP (part of the NCC), the CCSA, CGCSA etc. for complaints about marketing, advertising, labelling, or any environmental or animal welfare-related issues. We also requested details and outcomes of any proceedings, along with records on how eggs, egg products, and products containing eggs are labelled, particularly in relation to practices like caged egg farming.

Advertising Regulatory Board (“ARB”)⁶⁶⁹

Although a voluntary regulatory body, the ARB is relevant to the governance framework due to its role in providing specific guidance on consumer protection and Greenwashing.⁶⁷⁰ Consumers may lodge complaints with the ARB about the content of advertising.⁶⁷¹ According to its website, the ARB was set up by the broader marketing and communications industry to protect consumers in SA through the self-regulation of advertising, including packaging.⁶⁷²

ARB Code of Advertising Practice

⁶⁶⁶ The Competition Commission of South Africa (“CCSA”) <https://www.compcom.co.za/> (accessed on 14 August 2024).

⁶⁶⁷ CCSA <https://www.compcom.co.za/wp-content/uploads/2024/02/Commission-Invites-Comments-on-Draft-ToRs-into-the-Poultry-Industry-Value-Chain.pdf> (accessed on 14 August 2024).

⁶⁶⁸ *Supra* note 476.

⁶⁶⁹ Advertising Regulatory Board (“ARB”) <https://www.arb.org.za/> (accessed on 14 August 2024).

⁶⁷⁰ *Supra* note 126.

⁶⁷¹ ARB <https://www.arb.org.za/complaints.html> (accessed on 14 August 2024).

⁶⁷² *Supra* note 669.

The ARB administers the widely accredited Code of Advertising Practice (“**Code**”)⁶⁷³ which regulates the content of SA advertising.⁶⁷⁴ The Code defines “advertisement” to include any visual or aural communication, representation, reference or notification of any kind that is intended to promote the sale, leasing or use of any goods or services, or appeals for or promotes the support of any cause. This also includes any promotional content of display material, menus, labels and packaging.⁶⁷⁵

There is a specific code for “Food and Beverage” applicable to egg products.⁶⁷⁶ These advertising standards codes generally prohibit advertisements that are likely to be misleading to consumers.⁶⁷⁷ As such, the ARB and its specific Code applicable to egg products enables consumers to lodge complaints against role-players in the Egg Industry in instances where they suspect a form of washing is taking place. A consumer or other stakeholder concerned about unqualified claims and statements made by Corporations in the Egg Industry can lodge a complaint with the ARB requesting that the environmental claims be investigated.⁶⁷⁸

Appendix G to the ARB Code of Advertising Practice

In 2022, the aforementioned Code was amended to include an Appendix G (“**Appendix**”) which specifically deals with environmental claims, defined as: “*any direct or indirect claim, representation, reference or indication in an advertisement relating to the immediate or future impact or influence on the environment of a product or its packaging or service.*”⁶⁷⁹

The Appendix prohibits advertisements from including vague, incomplete, or irrelevant statements regarding environmental issues, and it mandates that ads should not undermine public confidence in the business community’s efforts to enhance ecological standards.⁶⁸⁰ Additionally, it regulates specific terms like “*recyclable*,” “*degradable*,” and “*ozone friendly*,” ensuring that these terms can only be used when they are accurately represented. Advertisements featuring general terms such as “*environmentally friendly*,” “*ozone friendly*,” or “*green*,” along with any related graphics or symbols, must be accompanied by a clear description of the associated benefits—for instance, “ozone friendly – free from CFCs.”⁶⁸¹

⁶⁷³ ARB <https://www.arb.org.za/index.html#codes> (accessed on 14 August 2024).

⁶⁷⁴ *Ibid.*

⁶⁷⁵ *Supra* note 126.

⁶⁷⁶ ARB [https://www.arb.org.za/assets/appendix-j-food--beverage-\(2022\).pdf](https://www.arb.org.za/assets/appendix-j-food--beverage-(2022).pdf) (accessed 14 August 2024).

⁶⁷⁷ *Supra* note 576.

⁶⁷⁸ Webber Wentzel <https://www.webberwentzel.com/News/Pages/greenwashing-and-the-role-of-the-advertising-regulatory-board-in-south-africa.aspx> (accessed on 14 August 2024).

⁶⁷⁹ Appendix G *Advertising containing Environmental Claims* accessible at https://www.arb.org.za/assets/lappendix-g_environmental.pdf.

⁶⁸⁰ *Supra* note 126.

⁶⁸¹ *Supra* note 679.

In the assessment of whether there has been a breach of the Code, the ARB will consider whether the claims had the effect of misleading the consumer (or are likely to mislead a consumer), are false or unsubstantiated, or in violation of the Code. As such, Corporations must be able to provide evidence to support claims and ensure that a claim is put into sufficient context to enable consumers to understand the basis on which they are made.⁶⁸²

ARB's Authority Over Non-Members

In 2022, the SCA held that the ARB does not only have the power to rule against a member of the ARB, but also to decide on complaints about an advertisement of a non-member of the ARB.⁶⁸³ The ARB can accordingly issue decisions on non-member advertisements for the benefit of its members, thereby indirectly influencing the advertising practices of non-members who wish to engage ARB members for promotional services.⁶⁸⁴ There are several important provisions in the Code that aim ensure that ARB members, who are bound by advertising standards, do not publish misleading advertisements, including those making unsubstantiated environmental claims.⁶⁸⁵ This framework allows consumers to challenge problematic practices, and ultimately have greater trust that there are safeguards in place to ensure honesty and integrity in the marketing and advertising of products and services.

The Code has been utilised in several cases involving advertising in the animal agriculture sector.⁶⁸⁶ Some challenges were unsuccessful and at least one has been successful.⁶⁸⁷ The successful challenge involved the ARB Appeals Committee ruling that a dairy company in SA could not utilise the terms “*humane*” and “*#happycows*” in their advertising due to this being in contravention of the Code.⁶⁸⁸

South African Bureau of Standards (“SABS”)

⁶⁸² *Supra* note 126.

⁶⁸³ *Advertising Regulatory Board NPC and Others v Bliss Brands (Pty) Ltd* (786/21) [2022] ZASCA 51; [2022] 2 All SA 607 (SCA); 2022 (4) SA 57 (SCA); [2022] HIPR 201 (SCA) (12 April 2022), accessible at: <https://www.saflii.org/za/cases/ZASCA/2022/51.html>; and *Bliss Brands (Pty) Ltd v Advertising Regulatory Board NPC and Others* (CCT 132/22) [2023] ZACC 19; 2023 (10) BCLR 1153 (CC) (26 June 2023), accessible at: <https://www.saflii.org/za/cases/ZACC/2023/19.html>.

⁶⁸⁴ The Media Online <https://themediainline.co.za/2022/08/landmark-ruling-confirms-arb-can-make-decisions-on-non-members-advertising/> (accessed on 14 August 2024).

⁶⁸⁵ Visagie, J (2023) The Jurisdiction of the Advertising Regulatory Board over Non-members: The Supreme Court of Appeal confirms its Herbeex-order in the Bliss-matter. *Potchefstroom Electronic Law Journal/Potchefstroomse Elektroniese Regsblad*, 26(1), pp.1-31, accessible at: https://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812023000100003.

⁶⁸⁶ *Ibid.*

⁶⁸⁷ Medium <https://medium.com/@joannefairbrother/statement-on-advertising-appealscommittee-decision-on-complaint-fair-cape-dairies-vs-kemp-1173775edd14> (accessed 14 August 2024).

⁶⁸⁸ Advertising Regulatory Board (ARB). (2024). Case Reference: 3291 – TotalEnergies. Decision Date: 14 August 2024, accessible at: <https://www.arb.org.za/2024.html>. Cape Times <https://www.pressreader.com/south-africa/cape-times/20200508/281621012507965> (accessed 14 August 2024).

The SABS is an agency of the DTIC established by the Standards Act⁶⁸⁹ to develop, promote and maintain South African National Standards (“SANS”); to enhance the quality of commodities, products, and services, and to provide conformity assessment services.⁶⁹⁰

The SABS is the International Organization of Standardization (“ISO”) member body in SA.⁶⁹¹ Therefore, the SABS adopts and adapts ISO standards to meet local needs, ensuring that they are relevant to South Africa’s specific context while maintaining international best practices.⁶⁹²

SABS certification and accreditation entails certifying that a product has passed performance and quality assurance tests stipulated in a standard or regulation, or that it complies to a national and international standard or regulation governing quality and minimum performance requirements.⁶⁹³ The SABS Product Certification Scheme aims to provide third party guarantees of the quality, safety and reliability of products provided by Corporations to the consumer.⁶⁹⁴

Except for those SABS Standards that have been incorporated into law or included in permit conditions, adherence to these standards is voluntary.

In the Initial Report, we highlighted the role of SABS as it pertains to animal welfare governance in particularly through the SANS, and more specifically draft standards relating to poultry.⁶⁹⁵ We highlighted the lack of binding legal status for these standards and the concerning influence of industry representatives in the drafting process, which often results in standards that fall short of advancing animal welfare.⁶⁹⁶ This critique was integral to our analysis of the regulatory landscape in Phase 1, where we examined the limitations of relying on voluntary standards in promoting meaningful welfare improvements.⁶⁹⁷ Notably, the SABS has not yet published an updated version of the proposed Poultry Welfare Code as at the date of this Supplementary Report, after withdrawing the draft in 2021.

Environmental Claims Standards (SANS)

SA has voluntary standards that can be referenced to determine if an environmental claim is misleading which include:⁶⁹⁸

⁶⁸⁹ The Standards Act 24 of 1945, accessible at: https://www.gov.za/sites/default/files/gcis_document/201709/41064gon858.pdf.

⁶⁹⁰ National Government of SA <https://nationalgovernment.co.za/units/view/161/south-african-bureau-of-standards-sabs> (accessed on 14 August 2024).

⁶⁹¹ International Organization of Standardization (“ISO”) <https://policy.iso.org/south-africa.html> (accessed on 14 August 2024).

⁶⁹² ISO <https://www.iso.org/member/1485.html> (accessed on 14 August 2024).

⁶⁹³ DTIC <https://www.thedtic.gov.za/wp-content/uploads/SABS-APP.pdf> (accessed on 14 August 2024).

⁶⁹⁴ SAFIC <https://www.safic.co.za/post/sabs-certification> (accessed on 14 August 2024).

⁶⁹⁵ *Supra* note 33 at pages 109-110.

⁶⁹⁶ *Ibid.*

⁶⁹⁷ *Ibid.*

⁶⁹⁸ *Supra* note 126.

- SANS 14021:2017: Deals with self-declared environmental claims (Type II environmental labelling).⁶⁹⁹
- SANS 14024:1999: Focuses on Type I environmental labelling, which involves third-party certification.
- SANS 1728:2019: Sets requirements for marking and identifying degradable plastics. Degradable plastics include, but are not limited to, “biodegradable, compostable, oxo-biodegradable and water-soluble plastics”.⁷⁰⁰

In respect of SANS 1728:2019, as at February 2023, the SABS Acting CEO confirmed that, no products have been certified as compliant or meeting the requirements of the standard. As such, claims of plastic products being “*degradable*”, “*environmentally friendly*” or “*plastic free*” may be unverified or unsubstantiated.⁷⁰¹

While some SABS standards are freely available on their website,⁷⁰² most require a fee for public access. In respect of some of the above standards, SABS notes on its website that: “*Only informative sections of standards are publicly available. To view the full content, you will need to purchase the standard.*” Just one of these standards costs over ZAR700, which is unaffordable for many people in South Africa, rendering them inaccessible.

(In)accessibility presents a serious obstacle in terms of wider public awareness. Without knowing the contents of these standards, consumers are not able to challenge problematic practices, ultimately undermining efforts to promote transparency and accountability in environmental matters.



CPF and Other Consumer Protection Bodies

Part B of Schedule 4 of the Constitution states that Consumer Protection is a functional area of concurrent National and Provincial Legislative Competence. The CPF is a voluntary national structure⁷⁰³ established by the DTIC in line with Part B of Schedule 4 of the Constitution, which designates consumer protection as a shared responsibility between national and provincial governments. The CPF includes nine provincial consumer protection offices and various regulatory authorities, such as the National Regulator for Compulsory Specifications (“**NRCS**”),⁷⁰⁴ Independent Communications

⁶⁹⁹ There was an amendment to ISO 14021:2016/Amd 1:2021 Environmental labels and declarations — Self-declared environmental claims (Type II environmental labelling). The sample is accessible at: <https://www.iso.org/standard/81242.html>.

⁷⁰⁰ Engineering News <https://www.engineeringnews.co.za/article/sabs-warns-about-unverified-biodegradable-plastics-claims-2023-02-28> (accessed on 14 August 2024).

⁷⁰¹ *Ibid* and *Supra* note 126.

⁷⁰² South African Bureau of Standards <https://www.sabs.co.za/> (accessed on 14 August 2024).

⁷⁰³ *Supra* note 141.

⁷⁰⁴ National Regulator for Compulsory Specifications (“NRCS”) <https://www.nrscs.org.za/> (accessed on 14 August 2024).

Authority of South Africa (“**ICASA**”),⁷⁰⁵ National Credit Regulator (“**NCR**”),⁷⁰⁶ Council for Medical Aid Schemes (“**CMS**”),⁷⁰⁷ Financial Sector Conduct Authority (“**FSCA**”),⁷⁰⁸ National Energy Regulator of South Africa (“**NERSA**”),⁷⁰⁹ Credit Ombudsman, Council for Debt Collectors (“**CDC**”),⁷¹⁰ as well as Accredited Alternative Dispute Resolution Agents such as the Consumer Goods and Services Ombud scheme (“**CGSO**”),⁷¹¹ and Motor Industry Ombud scheme of South Africa (“**MIOSA**”).⁷¹²

The CPF convenes quarterly to discuss consumer protection issues, conduct research, perform compliance inspections, and promote consumer education and business compliance.⁷¹³ It is notable that despite its major footprint, there is no specific agricultural sector body included in the abovementioned regulatory authorities.

International Governance Measures

In addition to the above South African laws, policies, standards and codes, international frameworks have an influence on modern consumer protection frameworks. For example, the United Nations Guidelines for Consumer Protection 2016 (“**UNGCP**”)⁷¹⁴, establish essential principles aimed at ensuring consumer rights and promoting fair market practices across member states. These guidelines advocate for adequate protection against health and safety hazards, access to information for informed decision-making, and effective redress mechanisms for consumers.⁷¹⁵ They emphasise the importance of ethical conduct in business, the development of independent consumer organizations, and the promotion of sustainable consumption practices.⁷¹⁶ While not legally binding, the UNGCP serves as a vital framework for countries to enhance their consumer protection policies, fostering a fair marketplace where consumers can make informed choices and engage in economic activities safely and equitably.⁷¹⁷ The CPA is in alignment with the UNGCP.⁷¹⁸

⁷⁰⁵ Independent Communications Authority of South Africa (“**ICASA**”) <https://www.icasa.org.za/> (accessed on 14 August 2024).

⁷⁰⁶ National Credit Regulator <https://nationalgovernment.co.za/units/view/126/national-credit-regulator-ncr> (accessed on 14 August 2024).

⁷⁰⁷ Council for Medical Aid Schemes (“**CMS**”) <https://www.medicalschemes.co.za/> (accessed on 14 August 2024).

⁷⁰⁸ Financial Sector Conduct Authority (“**FSCA**”) <https://www.fsc.co.za/Pages/Default.aspx> (accessed on 14 August 2024).

⁷⁰⁹ National Energy Regulator of South Africa (“**NERSA**”) <https://www.nersa.org.za/> (accessed on 14 August 2024).

⁷¹⁰ Credit Ombudsman, Council for Debt Collectors (“**CDC**”) <https://www.cfdc.org.za/> (accessed on 14 August 2024).

⁷¹¹ Consumer Goods and Services Ombud scheme (“**CGSO**”) <https://www.cgso.org.za/cgso/> (accessed on 14 August 2024).

⁷¹² Motor Industry Ombud scheme of South Africa (“**MIOSA**”) <https://www.miosa.co.za/> (accessed on 14 August 2024).

⁷¹³ *Supra* note 141.

⁷¹⁴ United Nations Guidelines for Consumer Protection (“**UNGCP**”) https://unctad.org/system/files/official-document/ditccplpmisc2016d1_en.pdf (accessed on 14 August 2024).

⁷¹⁵ *Ibid.*

⁷¹⁶ *Ibid.*

⁷¹⁷ *Ibid.*

⁷¹⁸ NCC <https://thenc.org.za/#> (accessed on 14 August 2024).

The aforementioned United Nations Guiding Principles on Business and Human Rights 2011,⁷¹⁹ are also relevant to the Egg Industry. They are premised upon general principles of respecting human rights, requiring businesses to comply with the law and respect human rights, and matching rights and obligations to remedies when breached. They place a strong responsibility on states to regulate business in this regard.

The UN has various strategic initiatives in place to tackle Greenwashing.⁷²⁰ In response to the rise of net-zero pledges often lacking transparency and integrity, the UN Secretary-General established a High-Level Expert Group to create clearer standards for these commitments in the realm of climate change.⁷²¹ Their report, “Integrity Matters,”⁷²² provides ten recommendations for credible net-zero pledges, which demonstrate the importance of accountability and transparency in climate action.⁷²³ To implement these recommendations, the UN introduced a Recognition and Accountability Framework.⁷²⁴ In September 2023, the UN held a Climate Ambition Summit, focusing on ambition, credibility, and implementation, while explicitly rejecting Greenwashing tactics.⁷²⁵ Additionally, the Secretary-General has called for a global ban on fossil fuel advertising and urged creative agencies to stop supporting Greenwashing, stressing the need for genuine action against climate change.⁷²⁶

These international guidelines have helped shape SA’s approach to consumer protection, providing a foundation for the country’s legislation and standards, particularly within industries like agriculture and food production,

Foreign Governance Measures

Foreign Codes and Regulations to Combat Corporate Hypocrisy

Although not established under SA domestic law, these codes serve as reference points and guidelines for developing consumer protection law in SA. The UK has developed a specific code to address potential greenwashing issues, known as the “*Green Claim Code*”.⁷²⁷ Introduced by the Competition and Markets Authority in 2021, this code updates UK consumer protection law with a focus on misleading Greenwashing claims.⁷²⁸ The key principles of the code require that corporate claims be truthful and accurate; clear and unambiguous; free from omissions or concealment of important

⁷¹⁹ UNHR https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf (accessed on 14 August 2024).

⁷²⁰ The UN <https://www.un.org/en/climatechange/science/climate-issues/greenwashing> (accessed on 14 August 2024).

⁷²¹ The UN <https://www.un.org/en/climatechange/high-level-expert-group> (accessed on 14 August 2024).

⁷²² The UN https://www.un.org/sites/un2.un.org/files/high-level_expert_group_n7b.pdf (accessed on 14 August 2024).

⁷²³ *Ibid.*

⁷²⁴ UNFCCC <https://unfccc.int/documents/629039> (accessed on 14 August 2024).

⁷²⁵ *Supra* note 720.

⁷²⁶ *Ibid.*

⁷²⁷ *Ibid.*

⁷²⁸ Compare Ethics <https://www.compareethics.com/resource-hub/green-claims-code-guide-for-brands-retailers> (accessed on 14 August 2024).

information; fair and meaningful in comparisons; and substantiated by considering the full life cycle of the product or service.⁷²⁹ The code applies to any claims made by businesses about the positive environmental aspects of their products or services.⁷³⁰ It may serve as a useful reference for addressing Greenwashing issues in South Africa.

The NCC could refer to and be guided by European Union regulations on Health-washing, specifically Regulation (EC) No 1924/2006,⁷³¹ which governs all nutrition and health claims in commercial communications, including food advertising and promotional campaigns. This regulation defines nutrition claims as any statements about a product's specific nutritional properties, such as its energy, nutrients, or other components, and health claims as those suggesting a link between a food or its ingredients and health.⁷³² The regulation mandates that such claims must not be false, ambiguous, or misleading; must not cast doubt on the safety or nutritional adequacy of other foods; and must not encourage excessive consumption.⁷³³ There are four main types of health claims under this regulation: general non-specific claims, claims not related to disease risk reduction, claims lowering disease risk, and claims about child growth and development.⁷³⁴ All claims must be substantiated by accepted scientific data, and food business operators must justify their use and demonstrate compliance.⁷³⁵

EXAMPLES OF LEGAL CONSUMER PROTECTION DUTIES OF CORPORATIONS IN THE EGG SUPPLY CHAIN

Corporations involved in the Egg Industry have several legal duties to uphold, ensuring compliance with consumer protection laws, regulations, and standards. These responsibilities encompass a range of regulations and best practices aimed at safeguarding consumer interests and ensuring product safety. Below are selected key legal duties:

● Duty 1: Compliance with Consumer Protection Laws

All stakeholders within the Egg Industry must adhere to relevant consumer protection laws including legislation such as the CPA, Competition Act, APSA, MAPA, and relevant regulations such as the Egg Labelling Regulations, among others. Ensuring compliance with Consumer Protection Legislation, and other Relevant Legislation,⁷³⁶ is a crucial aspect of maintaining legal and ethical standards within the Egg

⁷²⁹ *Supra* note 113 above.

⁷³⁰ *Supra* note 728.

⁷³¹ Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on food, accessible at <https://eur-lex.europa.eu/legal-content/en/ALL/>.

⁷³² *Ibid* and Potter Clarkson <https://www.potterclarkson.com/insights/what-is-healthwashing-and-what-is-a-claim/> (accessed on 14 August 2024).

⁷³³ *Ibid* at Article 3.

⁷³⁴ *Ibid*.

⁷³⁵ Article 6 of Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on food accessible at <https://eur-lex.europa.eu/legal-content/en/ALL/>.

⁷³⁶ Ss 5, 22, 24, 27 of the CPA; ss 3 and 5 of the APA; s 2 of the MAPA; s 2 of the FCDA; and s 3 of the HA are applicable to this request.

Supply Chain. We sought to gain a clearer understanding of how Phase 2 Selected Stakeholders and their suppliers perceive and fulfil their legal obligations under Consumer Protection Legislation.

PAIA Request: (Non) Compliance with Consumer Protection Legislation

We requested records pertaining to the adherence to or breaches of Consumer Protection Legislation, as well as any related amendments, rules, regulations, and notices.

● Duty 2: Ensure that Operations Prioritise Consumer Rights

Corporations are required to ensuring that their operations prioritise consumer rights recognised in the CPA, our Constitution as well as the UNGCP.

● Duty 3: Product Safety and Quality

Corporations are responsible for ensuring the safety of their (egg) products. S 63 of the CPA mandates that businesses must not only provide safe products but also remove any that pose risks to consumers.

● Duty 4: Supply Chain Transparency

Suppliers must maintain transparency in their operations, including providing accurate information about production methods that relate to animal welfare and environmental harm. This includes disclosing if eggs are produced using caged systems, which may be against the ethical values of a consumer.

● Duty 5: Transparent Marketing Practices

Corporations have a duty to provide clear and accurate information about their products. This includes truthful labelling and advertising that do not mislead consumers regarding the nature, benefits, impact or other characteristics of the products.

Consumer Awareness Statements⁷³⁷ made by Corporations regarding animal welfare and environmental issues impact consumer protection by promoting transparency and accountability, allowing consumers to make informed choices aligned with their values.⁷³⁸ This openness fosters trust, encourages ethical practices across the Egg Industry, and creates mechanisms for consumer feedback, ultimately leading to

⁷³⁷ A Consumer Awareness Statement is a statement made by a Corporation informing consumers about a Corporation's practices and policies, especially regarding animal welfare and environmental issues. The statement is intended to provide true and correct information to consumers that will assist them in making informed decisions in respect of products sold by the Corporation. The information must therefore be clear and easy for the consumer to understand. Linked to Public Statements as defined in our Initial Glossary, accessible on our dedicated egg website, <https://www.eggsouthafrica.org/resources/>, it includes details about egg sourcing, the conditions that Layer Hens are kept in, and the Corporation's adherence to environmental responsibilities, This information reflects the Corporate's engagement with the public on these matters and empowers consumers to make informed decisions.

⁷³⁸ McKinsey & Company <https://www.mckinsey.com/industries/consumer-packaged-goods/our-insights/consumers-care-about-sustainability-and-back-it-up-with-their-wallets> (accessed on 14 August 2024).

a more responsible marketplace that prioritises consumer rights. For example, s41 of the CPA prohibits false or deceptive representations, which extends to claims about sustainability and environmental impact. Additional labelling, marketing and advertising requirements are contained in other legislation.⁷³⁹

PAIA Request: Consumer Awareness Statements

We requested records that evidenced Consumer Awareness Statements made by Phase 2 Selected Stakeholders and/or their suppliers regarding animal welfare and environmental issues, including statements concerning eggs, their sourcing, and the treatment of chickens under the Corporation and/or their supplier's control. The records were intended to assess not only compliance with environmental obligations, but also to reflect the Phase 2 Selected Stakeholders' and/or their suppliers' engagement with the public regarding these obligations.

POTENTIAL CONSEQUENCES FOR NON-COMPLIANCE WITH DUTIES AND OBLIGATIONS

Non-compliance with consumer protection laws and standards can result in a range of serious consequences for Corporations, including but not limited to:

● Strict Liability for Harm

The CPA imposes strict liability on producers and distributors for harm caused by unsafe goods, meaning Corporations can be held accountable (liable) without the need for consumers to prove fault.⁷⁴⁰ S 61(1) of the CPA provides that a producer or importer, distributor, or retailer is liable for any harm caused by supplying unsafe goods, product failures, defects, or inadequate instructions/warnings.

● Civil and Criminal Penalties

Penalties for violations under consumer protection laws vary by act and offence severity. S 112 of the CPA imposes fines up to R1 million or 10% of annual turnover, imprisonment for up to 10 years for serious offences, and potential compensation for consumer damages. S 59 of the Competition Act allows fines up to 10% of annual turnover for anti-competitive practices, asset divestiture in merger violations, and up to 10 years of imprisonment for cartel conduct.

S 24 of the MAPA permits fines and imprisonment up to two years. S 11 of the APSA enforces fines and imprisonment for up to 2 years. These penalties aim to enforce regulations, protect consumers, ensure fair competition, and maintain agricultural product quality.

● Reputational Damage

⁷³⁹ This request relates to ss 1, 2, 3, 4, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 85 of the CPA.

⁷⁴⁰ S 61 of the CPA, and

A Corporation's reputation can suffer significantly if it is found to be non-compliant with the law,⁷⁴¹ or otherwise undertaking practices viewed to be harmful or problematic (such as Corporate Hypocrisy). Public trust is crucial for business success, and negative publicity can lead to loss of customers and partnerships, ultimately impacting sales and profitability.⁷⁴²

● Regulatory Actions

Consumers alleging that a Corporation has made false, misleading, or deceptive claim/s are afforded an opportunity to lodge complaints with various regulatory bodies, tribunals and forums discussed earlier. For example, if the NCC finds that suppliers of goods made false, misleading or deceptive claims, the offending Corporation may be subject to an administrative fine to the maximum of 10% of the offending Corporations' annual profit, or found guilty of criminal offences related to false labelling, over and above any other statutory remedies available to the consumer.⁷⁴³ Furthermore, consumers and other businesses can approach the ARB, which can make rulings and impose sanctions on non-compliant Corporations.⁷⁴⁴ If a business is found to be in breach, the ARB can for example require the offending advertisement to be withdrawn or amended. This can severely disrupt business operations.

● Class Actions

Entities responsible for consumer protection violations due to non-compliance may face court action from affected parties, including class actions. For example, individuals affected by the listeriosis outbreak from products sold by Tiger Brands between 2016 and 2018 are seeking compensation from Tiger Brands by way of a class action.⁷⁴⁵ This case is still in progress.

JURISPRUDENTIAL DEVELOPMENTS AND TRENDS

The following cases demonstrate the growing enforcement of legal and regulatory frameworks designed to hold Corporations accountable for Corporate Hypocrisy, including misleading advertising and unsafe practices, particularly within the food and agricultural sectors. They reveal the critical importance of transparency, consumer protection, and corporate responsibility in preserving public trust and ensuring the accuracy of environmental and health-related claims. Through these decisions, the courts and regulatory bodies are setting significant precedents, reinforcing the need for truthful communication and adherence to safety standards in corporate conduct – and in some instances, setting consumers two paces back.

⁷⁴¹ Financial Crime Academy <https://financialcrimeacademy.org/consequences-of-non-compliance/> (accessed on 14 August 2024).

⁷⁴² The Manual <https://trainual.com/manual/brand-reputation> (accessed on 14 August 2024).

⁷⁴³ Barnard Inc. <https://barnardinc.co.za/2023/11/13/navigating-the-green-tide-south-africas-emerging-greenwashing-litigation-landscape/> (accessed on 14 August 2024).

⁷⁴⁴ Barter McKellar <https://www.bartermckellar.law/entertainment-law-explained/the-advertising-regulatory-board-in-south-africa-a-comprehensive-guide#> (accessed 14 August 2024).

⁷⁴⁵ *Tiger Brands Limited and Others v Pillay and Others (Famous Brands and Another Intervening)* (2019/25309; 2018/12835; 2019/36431) [2020] ZAGPJHC 160 (23 June 2020), accessible at: <https://www.saflii.org/za/cases/ZAGPJHC/2020/160.html>.

South African Rulings: Selected Examples

- In *Kemp & Others v Fair Cape Dairies*,⁷⁴⁶ the ARB Appeals Committee ruled against a dairy farm for using terms like “#HappyCows” and “humane”, in marketing their products which the appeals committee found to be misleading and problematic, and required that the company stopped utilising such terms. This ruling is a key step in combatting Humane-washing in the context of animal agriculture. By limiting or prohibiting the use of such claims, the decision enhances consumer protection, ensuring transparency and accountability in advertising.⁷⁴⁷ While most challenges under the ARB Code in animal agriculture have failed, this case stands out as a success. The 2022 introduction of Appendix G to the ARB Code, addressing environmental claims, may pave the way for future cases of Corporate Hypocrisy in the Egg Industry and beyond.
- The ARB’s first Greenwashing complaint, filed by **Fossil Free South Africa against TotalEnergies**,⁷⁴⁸ relates to an advertisement claiming a commitment to “sustainable development” and “environmental protection,” despite the Corporation concerned, TotalEnergies, being one of the largest GHG emitters globally.⁷⁴⁹ On 14 August 2024, the ARB determined that TotalEnergies’ website content misled consumers regarding its environmental commitment, violating the Code of Advertising Practice.⁷⁵⁰ The ARB ordered TotalEnergies to withdraw or amend the advertisement to prevent further public misdirection.⁷⁵¹ This ruling underscores the need for accountability in environmental advertising, fosters transparency, and sets a precedent for companies to provide truthful information to consumers.

South African Case Law: Selected Examples

- In *Amalgamated Beverage Industries Natal (Pty) Ltd v City Council of the City of Durban*,⁷⁵² a soft drink manufacturer was convicted under municipal by-laws for selling contaminated products.⁷⁵³ The court confirmed that strict liability applies in food safety cases, meaning that manufacturers can be held liable for selling food unfit for consumption regardless of their knowledge or negligence.⁷⁵⁴ This precedent reinforces the importance of compliance with health regulations in the food industry.

⁷⁴⁶ *Kemp & 10 Others v Fair Cape Dairies (Pty) Ltd* (Advertising Regulatory Board, Advertising Appeals Committee, 30 April 2020), accessible at: https://drive.google.com/file/d/1G0Y0HJEB0WHsM27bft0_uDxISDAG6nuY/view?usp=sharing.

⁷⁴⁷ *Ibid* at par 4.1, 14, 16 and 17.

⁷⁴⁸ *Supra* note 688.

⁷⁴⁹ *Ibid* at page 3.

⁷⁵⁰ *Ibid* at page 11.

⁷⁵¹ *Ibid* at page 10.

⁷⁵² *Amalgamated Beverage Industries Natal (Pty) Ltd v City Council of the City of Durban* (675/92) [1994] ZASCA 2; 1994 (3) SA 170 (AD); [1994] 2 All SA 222 (A) (22 February 1994), accessible at: <https://www.saflii.org/za/cases/ZASCA/1994/2.html>.

⁷⁵³ *Ibid* at para 21.

⁷⁵⁴ *Ibid* at para 4.

- From 2016 to 2018, SA faced the largest listeriosis outbreak in history, linked to ready-to-eat processed meat products from Tiger Brands' Polokwane facility, resulting in 1,065 confirmed cases and 218 deaths. The subsequent class action in *Tiger Brands Limited and Others v Pillay and Others*,⁷⁵⁵ certified by the High Court in 2018, aimed to establish strict liability under the CPA and prove negligence by Tiger Brands, representing a pivotal moment in consumer rights and emphasising the need for Corporations to be held accountable for food safety violations.⁷⁵⁶ The SCA's ruling in *Deltamune (Pty) Ltd and Others v Tiger Brands Limited and Others*,⁷⁵⁷ which allowed the class action to proceed, further reinforced the principle of Corporate Accountability. The case will be proceeding to trial in due course.⁷⁵⁸

Selected Examples of Foreign Advertising / Competition Board Rulings

- In 2020, the UK's *Advertising Standards Authority ("ASA") v Ryanair Ltd t/a Ryanair Ltd*⁷⁵⁹ ruling confirmed that Ryanair's claims of "low CO₂ emissions" and being the "lowest emissions airline" were misleading.⁷⁶⁰ The ASA found that while consumers might understand the relative nature of the claim, the evidence provided by Ryanair was insufficient to substantiate it, particularly as the data referenced was outdated and did not include comparisons with other major airlines.⁷⁶¹ The ASA ordered the ads not to be reused in their current forms.⁷⁶² This case is indicative of the need for greater corporate accountability and transparency in advertising claims as they relate to carbon .
- In the Australian case of *Volkswagen Aktiengesellschaft v Australian Competition and Consumer Commission*,⁷⁶³ Volkswagen faced a staggering fine of approximately \$34.69 billion for implementing software that falsified emissions data to evade regulatory tests.⁷⁶⁴ This case, known as "Dieselgate", highlighted the extent of Corporate deception in environmental claims and underscored the necessity for stringent regulations to protect consumers from misleading practices.⁷⁶⁵

⁷⁵⁵ *Supra* note 745.

⁷⁵⁶ *Ibid.*

⁷⁵⁷ *Deltamune (Pty) Ltd and Others v Tiger Brands Limited and Others* (847/2020) [2022] ZASCA 15; [2022] 2 All SA 26 (SCA); 2022 (3) SA 339 (SCA) (4 February 2022), accessible at: <https://www.saflii.org/za/cases/ZASCA/2022/15.html>.

⁷⁵⁸ IOL <https://www.iol.co.za/capetimes/news/listeria-class-action-grinds-to-a-slow-halt-0ea7d88e-63dc-4cac-9a01-9b67d93438f6> (accessed on 14 August 2024).

⁷⁵⁹ Advertising Standards Authority (2020, February 5). *Ryanair Ltd t/a Ryanair Ltd*. ASA Ruling, accessible at: <https://www.asa.org.uk/rulings/ryanair-ltd-cas-571089-p1w6b2.html>.

⁷⁶⁰ *Ibid.*

⁷⁶¹ *Ibid.*

⁷⁶² *Ibid.*

⁷⁶³ *Volkswagen Aktiengesellschaft v Australian Competition and Consumer Commission* [2021] FCAFC 49 (9 April 2021), accessible at: <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCAFC/2021/49.html>.

⁷⁶⁴ *Ibid.*

⁷⁶⁵ Maris, I.C (2019) *The automotive industry and the Dieselgate case* (Master's thesis), accessible at: <https://trepo.tuni.fi/bitstream/handle/10024/118588/MarisIoanaCorina.pdf;jsessionid=F06C4EAD1569B844DFD8C5AD0070E0D3?sequence=2>.

● In the Canadian matter of *Commissioner of Competition v Keurig Canada Inc.*,⁷⁶⁶ Keurig was fined \$3 million for misleading consumers about the recyclability of its coffee pods, and entered into an agreement with the Commissioner of Competition, confirming that the fine will be paid in full.⁷⁶⁷ The company led consumers to believe that the pods could be easily recycled, which was not the case in most provinces.⁷⁶⁸ This matter illustrated the importance of accurate labelling and the need for accountability in marketing practices.

Selected Examples of Foreign Case Law

- In the Danish case of *Vegetarian Society et al. of Denmark v Danish Crown*,⁷⁶⁹ the court found Danish Crown, Europe’s largest pork producer, guilty of misleading advertising in its “Climate-Controlled Pork” campaign.⁷⁷⁰ The court ruled that the claim of being “more climate-friendly than you think” was not a violation, but the pink stickers claiming the pork was “climate-controlled” violated Denmark’s Marketing Act due to lack of independent verification.⁷⁷¹ This case spotlighted deceptive marketing practices in the meat industry.
- In the U.S case of *Animal Legal Defense Fund (“ALDF”) & Others v Hudson Valley Foie Gras LLC (“HVFG”) & Others*,⁷⁷² the plaintiffs accused HVFG of misleadingly marketing foie gras, made from force-fed ducks and geese, as “the humane choice”.⁷⁷³ The production involves cruel practices banned in several countries.⁷⁷⁴ The court allowed some claims to proceed to a higher court, emphasising the case’s significance for consumer protection and animal welfare.⁷⁷⁵ HVFG subsequently removed the misleading language from its marketing, and the plaintiffs chose to dismiss the case.⁷⁷⁶ This case is beneficial for addressing Humane-washing and enhancing consumer protection as it challenges deceptive marketing claims that mask inhumane practices, reinforcing the need for accurate representation of animal welfare standards.

⁷⁶⁶ *Canada (Commissioner of Competition) v Keurig Canada Inc.* (CT-2018-005), Registered Consent Agreement, accessible at: <https://decisions.ct-tc.gc.ca/ct-tc/cdo/en/item/518827/index.do>.

⁷⁶⁷ *Ibid* at para 5.

⁷⁶⁸ Canadian Government <https://www.canada.ca/en/competition-bureau/news/2022/01/keurig-canada-to-pay-3-million-penalty-to-settle-competition-bureaus-concerns-over-coffee-pod-recycling-claims.html> (accessed on 14 August 2024).

⁷⁶⁹ *Vegetarian Society et al. of Denmark v Danish Crown*, Vestre Landsret (Western High Court), March 1, 2024, accessible at: <https://climatecasechart.com/non-us-case/vegetarian-society-et-al-of-denmark-v-danish-crown/>.

⁷⁷⁰ *Ibid*.

⁷⁷¹ Ingredients Network <https://www.ingredientsnetwork.com/danish-crown-s-climate-controlled-claim-news123961.html> (accessed on 14 August 2024).

⁷⁷² *Animal Legal Defense Fund et al v HVFG, LLC. et al*, No. 3:2012cv05809 - Document 104 (N.D. Cal. 2013), accessible at: <https://law.justia.com/cases/federal/district-courts/california/candce/3:2012cv05809/260814/104/>.

⁷⁷³ *Supra* note 772 at para 2.

⁷⁷⁴ Animal Equality <https://animalequality.org/blog/2022/02/08/what-is-foie-gras/> (accessed on 14 August 2024).

⁷⁷⁵ *Supra* note 772 at para 2.

⁷⁷⁶ *Ibid*.

PART D: LAYING IT ON THE LINE

LACK OF TRANSPARENCY: REALITIES IN THE EGG INDUSTRY

Many Corporations operating within the Egg Supply Chain make claims relating to sustainability and good animal welfare practices. Claims of such nature, should be backed up with evidence, information and data, in order to be meaningful and legitimate. Industry bodies may also make claims, which should similarly be verified.

Due to the focus of our Project on the Egg Industry in SA, and more specifically on the environmental, animal, and human (specifically consumer) impacts of the Egg Industry, we discuss recent developments in the industry in respect of a transition towards cage-free egg production, particularly for Layer Hens.

One argument commonly raised by Corporations (and industry bodies that represent them) in resistance of transitioning to cage-free egg production is a lack of economic feasibility.⁷⁷⁷ In SA, there is very little information regarding the costs of egg production, particularly when negative externalities are considered. These externalities may include but are not limited to: environmental harm caused by egg production and distribution;⁷⁷⁸ Cruel Practices towards animals such as de-toeing and de-beaking;⁷⁷⁹ health risks associated with excessive antibiotic use in Layer Hens⁷⁸⁰ and Avian Flu; and social issues such as the negative impacts on workers and rural communities near industrial chicken and egg farms,⁷⁸¹ and the financial burden on taxpayers.⁷⁸² Addressing these factors is essential for a comprehensive understanding of the overall economic viability of the egg production industry.

One study commissioned by the SAPA and conducted by the NAMC (“**NAMC Study**”) as discussed below, engages with the economic feasibility of transitioning from caged systems, and other factors which impact on consumer rights and choices, among various other rights. This study has proven incredibly difficult to obtain. Below we outline some key considerations relating to the study including the stakeholders involved and the problems arising from it, and its non-disclosure.

SAPA

⁷⁷⁷ Fair Play Movement <https://fairplaymovement.org/cage-free-eggs-will-cost-r5bn/> (accessed on 14 August 2024).

⁷⁷⁸ *Supra* note 195.

⁷⁷⁹ The African <https://theafrican.co.za/featured/improving-animal-welfare-on-south-african-farms-e8022b22-57c7-4005-a32d-be3911ea9201/> (accessed on 14 August 2024).

⁷⁸⁰ Lima, É et al (2023) Antibiotics in intensive egg production: Food Safety tools to ensure regulatory compliance. *Food Chemistry Advances*, 3, p.100548, accessible at <https://www.sciencedirect.com/science/article/pii/S2772753X23003696>.

⁷⁸¹ Pew Commission on Industrial Farm Animal Production <https://clf.jhsph.edu/sites/default/files/2022-03/impact-of-industrial-farm-animal-production-on-rural-communities.pdf> (accessed on 14 August 2024).

⁷⁸² *Supra* note 652.

SAPA represents both the poultry and egg industries in South Africa.⁷⁸³ Through its Egg Organisation, SAPA promotes, develops and guides the commercial Egg Industry in SA.⁷⁸⁴ SAPA's tagline is "*Small Footprint – Big Impact*".⁷⁸⁵ This tagline is particularly concerning in light of the scope and scale of the industry SAPA represents and the potential collective impact of its members on animal, human and environmental matters (as further highlighted in the Environmental Pillar above).

⁷⁸³ SAPA <https://www.sapoultry.co.za/> (accessed on 14 August 2024).

⁷⁸⁴ SAPA <https://www.sapoultry.co.za/board-members/> (accessed on 14 August 2024).

⁷⁸⁵ *Supra* note 783.

● NAMC

The NAMC is a statutory body established in terms of the MAPA, reporting to the Minister of DALRRD.⁷⁸⁶ Its mandate is executed through four core divisions: Agribusiness Development, Agricultural Trusts, Statutory Measures, and the Markets and Economic Research Centre, all of which work towards increasing market access, promoting marketing efficiency, optimizing export earnings, and enhancing the viability of the agricultural sector.⁷⁸⁷

NAMC Study

In 2020, SAPA appointed the NAMC to conduct an economic study of Layer Hen housing and production systems in the midst of growing pressure from advocacy groups and the public to go cage-free.⁷⁸⁸ The study is titled “*Analysis of the South African Egg Layer System*”. The stated purpose of the NAMC Study is to explore whether it would be an economically viable option for SA to transition from caged to free-range chicken and egg facilities.⁷⁸⁹

The NAMC Study is not in the public domain, despite having direct and indirect impacts on consumers, being conducted by a statutory body, and commissioned by a body which has certain obligations in respect of consumer education and which receives funding from consumers on eggs they purchase. One of the few documents in the public domain that relates to the NAMC Study is a press release by the NAMC dated 9 November 2020.⁷⁹⁰ The press release confirms that the NAMC Study “*will be made available by the end of February 2021*” – however, it does mention to whom the study will be made available.⁷⁹¹

A non-publicly available Executive Summary of the NAMC Study dated 1 March 2023, states that should SA transition to cage-free farming practices:

- X** A direct investment of **R4,93 billion** would be required to aid the transition;
- X** The SA Egg Industry could potentially **decrease by between 26% and 36%** due to price increases;

⁷⁸⁶ NAMC <https://www.namc.co.za/about-us/profile/> (accessed on 14 August 2024).

⁷⁸⁷ *Ibid.*

⁷⁸⁸ NAMC <https://www.namc.co.za/wp-content/uploads/2020/11/Egg-Economic-Study-Press-Release.pdf> (accessed on 14 August 2024).

⁷⁸⁹ SAPA <https://www.sapoultry.co.za/wp-content/uploads/2023/06/7-Dr-Abongile-Balarane-SAPA-presentation-2023.pdf> (accessed on 14 August 2024).

⁷⁹⁰ *Ibid.*

⁷⁹¹ *Ibid.*

- X The Gross Domestic Product (“GDP”)⁷⁹² of the Egg Industry will decline by **21%**;
- X The contribution to employment in the Egg Industry will decline by **6 158 jobs**; and
- X State revenue of approximately **R1 092 million** will be forfeited due to the implementation of the additional regulations.

The Executive Summary primarily addresses the economic and social impacts of transitioning to cage-free egg production in South Africa, discussing effects on costs, prices, competitiveness, and employment. While environmental impacts are not directly addressed, water supply is mentioned among several factors affecting industry competitiveness. The summary states that the Egg industry “*has sound potential to grow in a financially feasible and sustainable manner if a supportive environment were to exist*”. However, this claim of sustainability is not substantiated with reference to relevant environmental data. The quality and availability of water are noted as important, with questions raised about local water resource management, but the summary does not address how different production systems might impact water use or other environmental factors. This omission represents a significant gap in the analysis, particularly given environmental harm caused by egg production in general.

CGCSA

Although not directly involved in the creation of the NAMC Study, the CGCSA has made certain statements to its members in respect of it. The CGCSA is “*an industry association representing over 9 000 member companies in the Consumer Goods, Retail and Services sectors, which is one of the largest employers in South Africa*”.⁷⁹³ According to its website, it is the CGCSA’s “*vision to become the leading Consumer Goods industry platform for advocacy, collaboration and best practice in South Africa and across Africa*”.⁷⁹⁴ This influence extends across the entire food supply chain for many products sold in South Africa, including items like eggs.

The CGCSA claims to “*help members trade better and build sustainable business through*” among others, “*sharing best practice standards and ensuring alignment with global Sustainable Development Goals and National Development Plan*”.⁷⁹⁵

According to its website, the directors of CGCSA are leaders of various corporations, including AVI, Unilever, Rainbow Chicken, Tiger Brands, and many others.⁷⁹⁶ The reach and impact of the CGCSA

⁷⁹² International Monetary Fund <https://www.imf.org/en/Publications/fandd/issues/Series/Back-to-Basics/gross-domestic-product-GDP> (accessed on 14 August 2024).

⁷⁹³ CGCSA <https://www.cgcsa.co.za/> (accessed on 14 August 2024).

⁷⁹⁴ *Ibid.*

⁷⁹⁵ CGCSA <https://www.cgcsa.co.za/who-we-are/> (accessed on 14 August 2024).

⁷⁹⁶ *Ibid.*

cannot be overstated in respect of consumer goods in SA. The CGCSA encourages its thousands of members to act in accordance with its recommendations.

Despite regarding itself as an entity acting with **integrity, excellence and accountability**, the CGCSA has taken a problematic stance in respect of the NAMC Study, releasing a statement to its members stating the following (emphasis added throughout):

- X “...some animal welfare activists have been calling for a ban of cage egg production in SA”.
- X “The results of the study, which we have attached, **clearly conclude that SA is not yet ready for 100% cage-free systems**”.
- X “introducing cage-free egg production without a transitional period would result in a significant increase in the price of eggs, on whom many people depend for protein; the knock-on impact on jobs would affect more than 30 00 livelihoods; and the egg industry would contract by as much as R4 billion”.
- X “**Clearly, from the foregoing and other findings in the report, the current economic situation does not make it ideal to ban or switch to cage free eggs**”.
- X “We are however against **unnecessary coercion** and pressure which may have **detrimental effects** to the food security and **egg value chain**”.
- X “**In the case of member companies not ready to economically ban cage eggs as part of their business, we urge them to share the attached letter and report (authorised by SAPA) with lobby groups coercing them to make/adopt this change**”.
- X “It is our considered view that calls for adopting cage free egg production is a regulatory issue which should therefore be directed to the relevant authorities who regulate egg production in the country.”

Why is access to the NAMC Study important?

Without access to the full NAMC Study, its findings cannot be properly understood, nor reviewed. Important matters such as which information and resources were relied on; the accuracy and completeness of the information; the rigour and basis of the NAMC Study; and other relevant factors cannot be interrogated. This calls into question the rationality of reliance thereon by SAPA, the CGCSA and others. Moreover, the non-transparency from these bodies raises significant concerns.

Another major concern is that SAPA receives statutory levies paid by the consumer, including for consumer communication and education, consumer assurance, research and industry information. The NAMC Study incorporates all these issues, and consumers have an interest in understanding its findings.

The primary issue explored in the study is a transition towards cage free systems. As discussed above and in the Animal Welfare Pillar of the Initial Report,⁷⁹⁷ certain stakeholders within the Egg Supply Chain make use of Cruel Practices which are harmful to animal welfare, human health and well-being, and the environment. The practice of using Battery Cages in caged-egg production involves, amongst others, chickens being confined to spaces in which they can barely move, and having their beaks and toes trimmed off so that they do not inflict harm to themselves or other chickens.⁷⁹⁸ Around the world there are efforts to phase out and ban the use of Battery Cages, given their cruel and inhumane nature.⁷⁹⁹

Obtaining access to the NAMC Study is a matter of public interest. The CGSA statement to its members, indicates that the study should be referenced as a rationale for Corporations refusing to engage with civil society organisations and undertake Cage-Free Commitments to transition to more ethical, humane and sustainable egg production systems. This has broad implications beyond financial considerations, as it relates to Corporate Transparency and Corporate Accountability.

There appears also to be inconsistencies also about the costs of caged vs. cage free systems. As per the graph below, SAPA's own industry data indicates that the gap between the costs of egg production systems is closing.⁸⁰⁰ SAPA confirmed that: "*The average price for cage eggs increased by 5.9% in 2022 while for barn + free-range eggs it decreased by 6.2%. In 2022, 98.5% of the eggs were produced in cages (up from 98.3% in 2021). The narrowing of the gap between prices for cage eggs and barn + free-range eggs, since 2018, suggests a shift by increasingly price-sensitive consumers to cheaper options.*"⁸⁰¹

⁷⁹⁷ *Supra* note 33 at pages 53-137.

⁷⁹⁸ Animal Welfare Institute <https://awionline.org/content/inhumane-practices-factory-farms> (accessed on 14 August 2024).

⁷⁹⁹ The Humane League <https://thehumaneleague.org/article/cage-free-progress-worldwide> (accessed on 14 August 2024).

⁸⁰⁰ *Supra* note 20.

⁸⁰¹ *Ibid.*

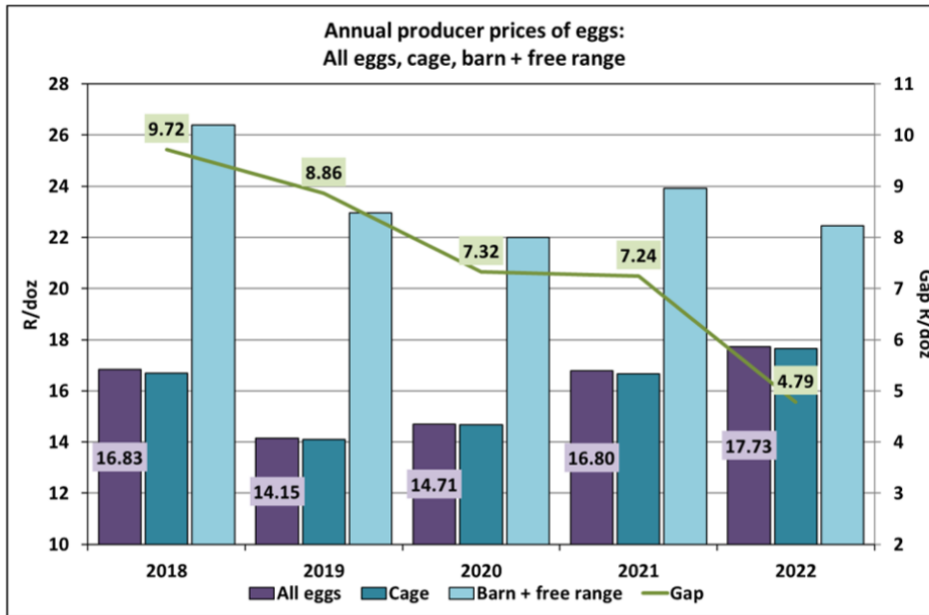


Figure 2: Annual producer prices for the different housing systems (source: SAPA)

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In addition, as depicted in the table below, between 2018 and 2022, the average mark-up on large eggs was **102.5%**.⁸⁰³

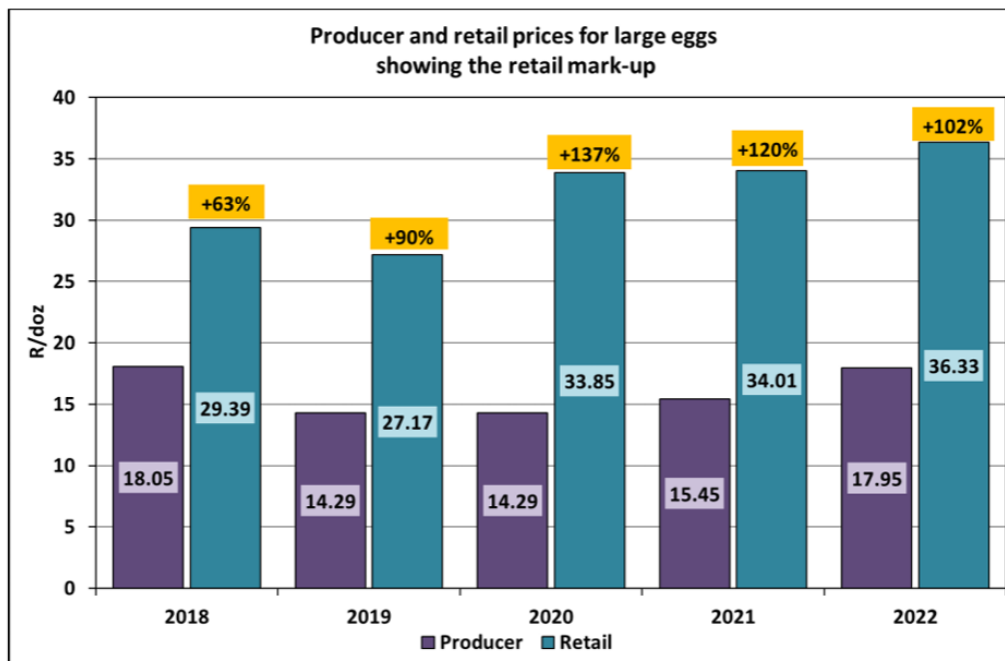


Figure 3: Annual producer and retail prices of large eggs (source: Stats SA)

⁸⁰² *Ibid.*

⁸⁰³ *Ibid.*

This high mark-up suggests that consumers are paying a substantial premium on egg prices, which could indicate that the industry has some room to absorb additional costs that may be associated with transitioning to more humane production methods, without necessarily passing costs on to consumers. It raises questions about the validity of the industry's assertion that cage-free systems are not a feasible option. Consumers should be mindful of such information when evaluating the Egg Industry's claims about the viability of transitioning to cage-free production systems.

Civil Society's Efforts to Obtain the NAMC Study and Public Interest

ALRSA has attempted to gain access to the NAMC Study utilising PAIA requests and processes since January 2023. Over the span of 20 months, we have initiated separate processes with different stakeholders including SAPA, NAMC, CGCSA, and DALRRD.⁸⁰⁴ Our requests have been refused for different reasons, including based on technicalities. In some instances, we have submitted multiple requests to the same entity; submitted internal appeals; and/or submitted formal complaints with the Information Regulator. As at September 2024, we have still not been granted access the full study.

Other animal protection organisations such as FOUR PAWS, HSI-Africa (among other organisations and including individuals) have also attempted to obtain access to the NAMC Study, which we understand have also not been successful. In light of this, FOUR PAWS released a petition titled "*Egg industry laws being influenced by secret report*" to demonstrate public interest in and support for releasing the NAMC Study into the public domain.⁸⁰⁵ As at date of writing, close to 4000 people have signed the petition.

Industry Role-Players' Response to Civil Society

The Southern African Faith Communities Environmental Institute ("**SAFCEI**"), a non-profit, multi-faith environmental justice organisation advocating for eco-justice, sustainable living, and animal welfare have, for years, engaged with role players in the Egg Supply Chain, including retailers to encourage a transition to cage-free eggs. After initial collective engagement efforts failed, SAFCEI focused on individual retailers.

One retailer informed the organisation that such a transition is not viable for their business operations unless other retailers in the Egg Supply Chain follow suit. During March 2024, SAFCEI received a letter from the CGCSA, acting on behalf of some of its member companies that were contacted by SAFCEI. CGCSA made the following statements in its letter:

"We are concerned that despite the engagements and clarity provided regarding the need to involve the entire value chain, SAFCEI continues with its tactics which amount to coercion and borders on encouraging uncompetitive behavior."

⁸⁰⁴ Requests to the aforementioned stakeholders were sent at different times over the 20 month period since January 2023.

⁸⁰⁵ FOUR PAWS <https://help.four-paws.org/en/egg-industry-laws-being-influenced-secret-report> (accessed on 14 August 2024).

SAFCEI conduct and actions may in our view solicit our members to contravene the provisions of competition laws particularly Section 8(d) of the Competition Act, 1998 which prohibits abuse of dominance.”

Strategic Litigation Against Public Participation (“SLAPP”) Lawsuits

Civil society organisations are becoming increasingly concerned to challenge industries for fear of retaliation. Corporations, industry and regulatory bodies, and other role-players in these industries have the financial means to hire legal teams, and initiate legal proceedings act against civil society, which usually have very limited resources, and limited access to legal representation.

One tactic used by industry role-players are SLAPP lawsuits,⁸⁰⁶ (short for Strategic Litigation Against Public Participation) which are designed to intimidate and silence public interest campaigns. Typically, these lawsuits aim to place limitations on free speech and discourage public engagement on matters of public interest.⁸⁰⁷

They have been described as: “[L]awsuits initiated against individuals or organisations that speak out or take a position on an issue of public interest . . . not as a direct tool to vindicate a bona fide claim, but as an indirect tool to limit the expression of others . . . and deter that party, or other potential interested parties, from participating in public affairs.”⁸⁰⁸

The Constitutional Court⁸⁰⁹ has recognised SLAPP as an abuse of process and confirmed that SA law recognises a special defence to SLAPP lawsuits. This illustrates that SA courts have rejected such corporate bullying, particularly when aimed at suppressing constitutional rights like freedom of expression and the right to an environment not harmful to health or well-being, which includes animal welfare.⁸¹⁰

Although this is a massive win for civil society, organisations and activists still face the risk of needing to secure legal representation and defend their activism, even with a strong defence.

⁸⁰⁶ Cornell Law School https://www.law.cornell.edu/wex/slapp_suit (accessed on 14 August 2024).

⁸⁰⁷ Media Defence <https://www.mediadefence.org/resource-hub/resources/slapps-in-sub-saharan-africa/> (accessed on 14 August 2024).

⁸⁰⁸ 1704604 Ontario Ltd v Pointes Protection Association 2020 SCC 22 449 DLR (4th)

⁸⁰⁹ Mineral Sands Resources (Pty) Ltd and Others v Reddell and Others (CCT 66/21) [2022] ZACC 37; 2023 (2) SA 68 (CC); 2023 (7) BCLR 779 (CC) (14 November 2022), accessible at: <https://www.saflii.org/za/cases/ZACC/2022/37.html>.

⁸¹⁰ GNHRE <https://gnhre.org/?p=12961> (accessed on 14 August 2024).

PART E: LAYING IT AT STAKEHOLDERS' DOORS

ENHANCING CORPORATE ACCOUNTABILITY TOWARDS CONSUMERS IN THE EGG INDUSTRY

There are various measures that can be adopted to enhance consumer Corporate Accountability in the Egg Industry. This Part E provides a handful of selected measures and is to be read with the Part D of Section II, Supplementary Environmental Pillar, Section IV of this Supplementary Report and Initial Report Recommendations.

● Promoting Good Consumer Practices by Corporations

Good consumer practices involve being informed and proactive in making purchasing decisions while understanding and asserting one's rights.⁸¹¹ Consumers should seek clear information about products and services, including pricing, quality, and safety standards, to ensure they are making educated choices. It is essential to be aware of consumer rights, such as the right to fair treatment, the right to return defective products, and the right to receive accurate advertising. Additionally, consumers should engage with businesses that demonstrate ethical practices and accountability, report unfair practices, and participate in consumer advocacy groups to help promote better standards in the marketplace.⁸¹² By being vigilant and informed, consumers can contribute to a fairer and more transparent economy.

● Transparent Labelling

Transparent labelling is a key aspect of good consumer practices in the agricultural industry.⁸¹³ It involves providing clear and truthful information on product labels, including details about product origins, nutritional content, and production methods.⁸¹⁴ Transparent labelling empowers consumers to make informed choices and encourages producers to adopt more sustainable and ethical practices.⁸¹⁵

⁸¹¹ Karimzadeh, S (2024) Ethical consumption in three stages: a focus on sufficiency and care. *Environmental Sociology*, 10(1), pp.1-11, accessible at: <https://www.tandfonline.com/doi/full/10.1080/23251042.2023.2277971>.

⁸¹² Forbes <https://www.forbes.com/sites/annaschaverien/2018/12/12/consumers-do-care-about-retailers-ethics-and-brand-purpose-accenture-research-finds/> (accessed on 14 August 2024).

⁸¹³ Schütz, A (2023) Making animal welfare labelling more transparent—The potential of different information types from simple text to highly immersive stable tours via VR glasses. *Journal of Agriculture and Food Research*, 14, p.100712 <https://www.sciencedirect.com/science/article/pii/S2666154323002193>.

⁸¹⁴ Kenya National Farmers' Federation <https://kenaff.org/wp/2023/10/12/role-of-transparent-food-labeling-in-ensuring-food-safety-for-consumers/> (accessed on 14 August 2024).

⁸¹⁵ BSI <https://www.bsigroup.com/en-VN/blog/food-industry-blog/eco-labelling-for-more-sustainable-food-choices/> (accessed on 14 August 2024).

Several countries have made efforts to implement transparent labelling regulations in the agricultural industry. Countries in the European Union have been at the forefront of this movement.⁸¹⁶ For example, as of 2023, the European Union has compulsory energy, nutrition and ingredient labelling standards in place.⁸¹⁷ Other countries have established mandatory standards to prevent misleading labelling and ensure that consumers receive accurate information about the products they purchase. For example, food products in Chile are required to have clear warnings on the front of the item, which alert them to high sugar content, saturated fat, and salt, which is placed in black and white text inside in a “stop sign” shape.⁸¹⁸

● Mandating Production Method Labelling

Amending the Egg Labelling Regulations to require that egg production methods such as “cage”, “barn”, and “free range” would contribute to enhancing transparent labelling of egg products in SA, and promoting consumer protection.

● Mandating Ecolabelling

Having food labels which contain information about the environmental impact of a product would be highly beneficial for consumers, the environment, and Corporate Accountability.⁸¹⁹ It could be a measure to improve the food industry’s ecological footprint as Corporations would need to make positive changes in order for their product labels to not dissuade consumers from purchasing their products.

● Challenging Corporate Statements and Demanding Transparency

Consumers are increasingly challenging Corporate statements and demanding transparency from agricultural companies.⁸²⁰ This shift in consumer behaviour may encourage Corporations to be more accountable for their practices and to provide accurate information about their production methods.⁸²¹

⁸¹⁶ Australian Government <https://www.agriculture.gov.au/biosecurity-trade/export/controlled-goods/dairy/din/maa-2014-18> (accessed on 14 August 2024).

⁸¹⁷ Australian Government <https://www.wineaustralia.com/getmedia/cf6a66c3-e3e0-451a-b048-cd0ad2db0208/20231128-Guidance-Ingredient-and-nutrition-labelling-with-Annexure-A.pdf> (accessed on 14 August 2024).

⁸¹⁸ University of the Witwatersrand <https://www.wits.ac.za/curiosity/stories/misleading-labels-and-insidious-ingredients.html> (accessed on 14 August 2024).

⁸¹⁹ Smith School <https://www.smithschool.ox.ac.uk/news/food-ecolabels-trusting-what-you-put-your-plate#> (accessed on 14 August 2024).

⁸²⁰ Mehrabi, S (2022) The role of consumer-citizens and connectedness to nature in the sustainable transition to agroecological food systems: the mediation of innovative business models and a multi-level perspective. *Agriculture*, 12(2), p.203, accessible at: <https://www.mdpi.com/2077-0472/12/2/203>.

⁸²¹ Gualandris, J. and Kalchschmidt, M (2014) Customer pressure and innovativeness: Their role in sustainable supply chain management. *Journal of Purchasing and Supply Management*, 20(2), pp.92-103, accessible at: <https://www.sciencedirect.com/science/article/abs/pii/S1478409214000260>.

By demanding transparency, consumers are driving positive change in the agricultural industry and promoting more sustainable and ethical practices.⁸²²

● Making Relevant Commitments⁸²³

Stakeholders in the Egg Supply Chain can show consumers that they are rising to meet expectations relating to animal protection, sustainability, and food quality (among other important issues) by making Relevant Commitments. These commitments are often made publicly and create positive (non-legal) duties for Corporations to make changes and report on their progress. They can assist consumers to make more ethical and informed choices about the products they purchase,⁸²⁴ while serving as a means for Corporations to held accountable for their practices.⁸²⁵ Such commitments can be made with support or pressure from consumers and civil society organisations. As more stakeholders make commitments, and consumers become aware of them, they can become a trend or norm, which can drive industry-wide change, ultimately leading to such matters being included in industry codes or standards, and even legislative changes.

In order to ensure that commitments are meaningful and do not contribute to Corporate Hypocrisy, it is imperative that they meet certain criteria, some of which are expanded on in Section IV, Recommendation 1 below. Despite commitments not being legally binding, Corporations which make them should be held accountable for failing to meet their promises. Due to our focus on the Egg Industry, for purposes of our investigation, we sought information in respect of certain commitments pertaining to Layer Hens in egg production systems.

PAIA Request: Relevant Commitments

We requested access to records which would demonstrate whether the Phase 2 Selected Stakeholders and/or their suppliers had signed onto animal welfare commitments, such as the Better Chicken Commitment ("BCC") and Cage-Free Commitments, and their progress in meeting these commitments.

● Third Party Certification(s)

Certain bodies provide third party certifications including relating to the manufacturing process of a product and independently determine whether the final product complies with specific standards for

⁸²² Koltiva <https://www.koltiva.com/post/transforming-agriculture-supply-chains-a-path-to-achieving-transparency-and-sustainability> (accessed on 14 August 2024).

⁸²³ 'Relevant Commitments' refers to one or more Animal Welfare Commitments and Environmental Commitments, as defined in our Initial Glossary, accessible on our dedicated egg website, <https://www.eggssouthafrica.org/resources/>.

⁸²⁴ *Ibid.*

⁸²⁵ *Supra* note 223.

safety, quality or performance.⁸²⁶ These standards can include in respect of animal welfare, the environment and human health.

Another example of a third-party certifier in the context of animal agriculture, is a Greener World (“AGW”) certifies certain animal and sustainability practices.⁸²⁷ This includes an “animal welfare approved” food label awarded to companies that comply with the requirements or certification of AGW. By assuring consumers of these standards, third-party certifications empower them to make informed choices, fostering confidence in the products they purchase and supporting a market that prioritises ethical and sustainable practices.

As indicated with regard to commitments above, in order to ensure these third-party certifications are meaningful and do not contribute to Corporate Hypocrisy, it is imperative that they meet certain criteria, some of which are expanded on in Section IV, Recommendation 1 below.

PAIA Request: Third Party Certification

We requested records from Phase 2 Selected Stakeholders and/or their suppliers relating to third-party certifications from AGW, and other relevant entities to ensure compliance with sustainability and quality assurance standards.

Membership to Industry Associations

Access to animal welfare membership records enables consumers to verify whether Corporations and their suppliers are committed to Responsible Sourcing practices and promotes compliance with such practices among Corporations.

PAIA Request: Animal Welfare Membership Records

We requested records of current and past memberships in industry associations related to the egg, chicken, and poultry sectors, such as SAPA and SABS, along with any correspondence regarding the confirmation, refusal, suspension, or termination of these memberships.

⁸²⁶ *Supra* note 33 at page 127.

⁸²⁷ A Greener World (“AGW”) <https://agreenerworld.org.za/> (accessed on 14 August 2024).

SECTION III

RUFFLING FEATHERS

STAKEHOLDER COMPONENT



SECTION II

SHEDDING LIGHT

RESEARCH COMPONENT



INTRODUCTION

This Section II contains the Research Component of this Supplementary Report and provides context about the Egg Industry in practice, including its impacts and its regulation. Research conducted for this component informed the Stakeholder Component as further set out in Section IV. Specifically, the matters and governance measures identified within them, informed the PAIA Requests sent to the Phase 2 Selected Stakeholders as well as the Phase 2 rating Criteria and Indicators.

Section II of our Initial Report titled: “*Chicken and Egg: Industry Overview*” provided an overview of the Egg Industry in SA, including different role players, the process involved in egg production, the types of egg products sold, different kinds of production systems, the SA market (local, regionally and internationally), job and economic related matters and industry challenges and threats.

Section III of our Initial Report titled: “*Revealing the Cracks*”, provided context of the Egg Industry in practice, through the six identified Pillars being Animal Welfare; Environment; Food Safety and Health; Social Issues and Rights, Consumer Protection, and Corporate and Business. Due to the focus of the Initial Report, animal welfare and well-being was highlighted throughout each of the Pillars.



Graphic Representation of focus of Initial Report intersecting Key Research Areas reflected as “Pillars”

Given the focus of this Supplementary Report on environmental and consumer related issues, only these two pillars are expanded on below, however the aforementioned pillar issues are woven in throughout, given their intersection and interconnectedness.

protection, including enforcement actions undertaken should be mandatory and made available to the public.

LEGAL AND DISCLAIMERS

These disclaimers are to be read in conjunction with the Disclaimers in the Initial Report and as contained on our dedicated website: www.eggssouthafrica.org.

The focus for the Project is on the large scale, industrialised and intensive animal agricultural and production sector, specifically in relation to chickens in the Egg Industry, and where relevant other poultry (including broilers, among others). As such, this Supplementary Report does not include the informal sector, nor small scale and subsistence farming operations. Where appropriate, examples of other farmed animals, or examples from other jurisdictions have been incorporated, particularly where such information is not readily nor easily available in the SA context.

While government and public bodies have an essential role to play in ensuring the well-being and welfare of animals as well as the protection of the environment and human rights, the focus of this Supplementary Report is largely on the role of the private sector, specifically Corporations. Aspects of governmental and public body regulation and policies are highlighted and discussed; however, these aspects are not the focal point of this Supplementary Report.

As an organisation focused primarily on animal law, this is the predominant lens through which this Supplementary Report (as read with the Initial Report) has been drafted and should be considered, i.e., the centering of animals, their interests, and their intrinsic worth in the dialogue. This Supplementary Report (as read with the Initial Report) is further aimed at providing information related to the environment and consumer protection as interrelated to animal protection. While social justice and environmental protection are critical components of the work of ALRSA, more research has been done in these areas as there are already a number of important organisations focusing on these aspects. As such, this Project aims to fill a gap within current research to additionally include animals and their welfare, flourishing and protection into this discussion, and the legal and policy tools which can be used to do this. Should the contents of this Supplementary Report (as read with the Initial Report) affect the reputation or business interests of any company, organisation, government entity, or individual mentioned, it constitutes the truth and fair comment and is stated in the public interest.

This Supplementary Report (as read with the Initial Report) is as a result of the preliminary research and the review performed by ALRSA and the co-authors and commenter as at the published date. It is published as at 30 September 2024 and is intended to provide only a summary of issues which may be relevant to the topic. It is limited in scope based on various factors. This is a non-exhaustive report intended to stimulate debate, research and law reform in the area of animal law, human rights, environmental law, consumer protection, and Corporate Accountability, particularly as it relates to food systems, and requires further context and information in relation to all of the issues included herein.

ALRSA has focused on selected regulatory aspects and has not considered all legal, economic, political, social, environmental, technological, and other relevant aspects pertinent to some of these issues. All such factors should be considered when pursuing any further work or research.

The focus of this Supplementary Report is on industrialised animal agricultural operations and practices occurring therein. Given the various types of such systems, these all have different considerations and consequences. Statements, observations and recommendations may / do / will not apply to small scale and extensive farming systems nor to other less harmful methods of animal agriculture including egg production and should not be constituted as allegations in relation thereto. It is explicitly recognised that animal agriculture including egg production is not all conducted in the same manner, and it is dependent on the particular farmer, facility, method of farming, geographic location and various other factors. Therefore, only generalised statements and recommendations are made focusing on harmful potential impacts of industrialised animal agriculture and are representative of what is understood in that context which may not be applicable to or appropriate for all animal agriculture and animal production, nor appropriate to all of the role-players and stakeholders mentioned in this Supplementary Report (as read with the Initial Report). Statements made will not apply to all facilities and stakeholders and should not be construed as such.

This Supplementary Report (as read with the Initial Report) does not contain a detailed description of all relevant laws and policies, papers and each document reviewed. Its purpose is to set out those legal issues which ALRSA considers to be material. Reliance should not be placed solely on any of the summaries contained in this Supplementary Report, which are not intended to be exhaustive of the provisions of any document or circumstances. ALRSA reserves the right to amend and update this Supplementary Report (as read with the Initial Report) including in light of new information and comments received. Unless otherwise expressly agreed by ALRSA in writing, no person is entitled to rely on this Supplementary Report (as read with the Initial Report) and neither ALRSA nor the co-authors or commenter accept responsibility or liability to any party, whether in contract, delict (including negligence) or otherwise relating hereto.

This Project has been conducted and this Supplementary Report (as read with the Initial Report) drafted by a civil society organisation in the public interest. In particular, with regard to the protection of guaranteed constitutional rights in mind and in exercising of ALRSA's right of freedom of expression as contained in the Constitution of the Republic of SA, 1996.

ALRSA is registered and established as a non-profit company and non-profit organisation. It is neither a registered law firm nor a law clinic. This Supplementary Report (as read with the Initial Report) does not constitute legal advice.

The inclusion of any resources or referenced materials, sources or sites in this Supplementary Report (as read with the Initial Report) does not constitute endorsement thereof, nor do ALRSA and/or the co-authors or commenter accept any responsibility for the content, or the use of or reliance upon same.

ALRSA aims to promote constructive dialogue and encourage responsible and ethical practices concerning animals, human and environmental rights, consumer protection, corporate transparency and accountability, among others.

REVISION NOTE: NOVEMBER 2024

This revision note formally documents updates to the report *Scrambling for the Truth: Eggsposing Corporate Hypocrisy and Non-Transparency*, published by ALRSA in September 2024 ("**Version 1 of the Supplementary Report**"). The revision addresses references to the "Egg Labelling Regulations" that previously stated or implied that indicating production methods (such as "caged," "barn," or "free-range") is mandatory. This update clarifies that including egg production methods on labels is, in fact, optional.

Amendments specifically addressing these changes are detailed in the table below. General edits, such as minor grammar corrections and footnote consistency, are not reflected in the table.

CHANGES MADE TO THE SUPPLEMENTARY REPORT

The following amendments have been made in Version 2 of the Supplementary Report in respect of the Egg Labelling Regulations:

DESCRIPTION OF AMENDMENT	PAGE NUMBER: VERSION 2 OF THE INITIAL REPORT
140	140
148	148
149	149
175	176
206	208
253	255
253	256



ANIMAL LAW REFORM

SOUTH AFRICA