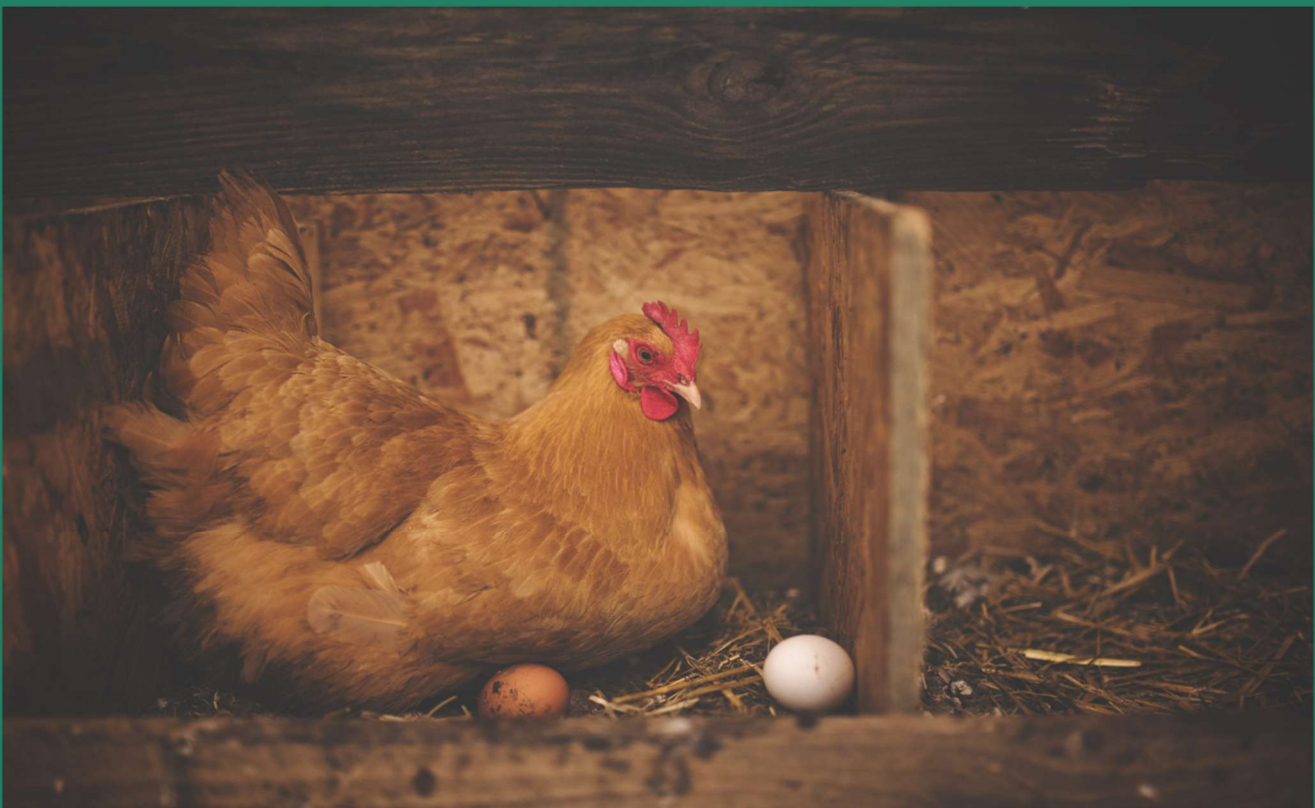


LAYING DOWN THE FACTS **V3**

ANIMAL WELFARE STANDARDS
OF THE COMPANIES
PROVIDING YOUR FAVOURITE FOODS



CORPORATE ACCOUNTABILITY
AND THE EGG INDUSTRY IN
SOUTH AFRICA

***NOTE:** This is Version 3 of the report titled “*Laying Down the Facts: Animal Welfare Standards of the Companies Providing Your Favourite Foods*,” originally published in August 2023 (“**Version 1 of the Initial Report**”). Version 2 was published in September 2024, with revisions relating to one of our Selected Stakeholders, Bidcorp, indicated throughout in red font, with red asterisks and/or yellow highlighting. As of November 2024, further amendments have been made that relate specifically to the Regulations Regarding the Grading, Packing, and Marking of Eggs Intended for Sale in the Republic of South Africa (the “**Egg Labelling Regulations**”) indicated throughout in red font, with red asterisks. For a record of all changes, please see **Revision Note I of September 2024** on pages 281–283 and **Revision Note II of November 2024** on page 284 below. Any reference to the Initial Report or “this report” throughout this document should be regarded as a reference to Version 3, rather than Versions 1 or 2 of the Initial 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 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 South Africa **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 South Africa, and that the impact of our work is enhanced through an intersectional understanding of animal flourishing, social justice and environmental protection.

ALRSA is a civil society organisation and registered non-profit company and NPO acting in the public interest.

ACKNOWLEDGEMENTS

FUNDING

Our work is in part funded by a grant from the Open Wing Alliance (“**OWA**”). Read more on their website: <https://openwingalliance.org/>.

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***PLEASE READ OUR LEGAL AND DISCLAIMERS SECTION.**

PLEASE CONSULT OUR GLOSSARY FOR A LIST OF DEFINED TERMS. Unless the context otherwise requires, capitalised terms have the meanings ascribed to them in the Glossary.

Recommended citation: Animal Law Reform South Africa, *Laying Down the Facts* (August 2023 updated September 2024 and November 2024). Available at: www.animallawreformsouthafrica.org

This Initial Report and other information relating to the Project are accessible at: www.animallawreformsouthafrica.org

We welcome comments, corrections, suggestions on and proposed amendments to this Initial Report including by the Selected Stakeholders.

We remain committed to engaging in an open and transparent manner in respect of this Initial Report. We reserve the right to amend this Initial Report.

Please email: outreach@animallawreform.org

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SECTION III

REVEALING THE CRACKS: RESEARCH COMPONENT



ANIMAL LAW REFORM
SOUTH AFRICA

“From the ancient Khoisan reverence of the eland
to the contemporary conception of the dog
as “man’s best friend”,
humans and animals have a storied relationship,
one that is a part of the fabric of our society,
homes and lives.

Animals have shifted from being
“mere brutes or beasts”
to “fellow beasts, fellow mortals or fellow creatures”
and finally to “companions, friends and brothers.”

To protect these voiceless companions,
individuals have time and again
stepped in when animals are mistreated.”

– Justice Khampepe
Constitutional Court Judge

National Society for the Prevention of Cruelty to Animals
v Minister of Justice and Constitutional Development
and Another [2016] ZACC 46

SECTION III: REVEALING THE CRACKS: RESEARCH COMPONENT

INTRODUCTION

This Section III contains the Research Component of this Initial Report and provides context about the Egg Supply Chain in practice including its impacts and its regulation. Research conducted for this component assisted with the identification of the Pillars, and informed the Stakeholder Component as further set out in Section IV. Specifically, the Pillars and matters identified within them, informed the PAIA Requests sent to the Selected Stakeholders as well as the rating Criteria and Indicators, with a focus on animal welfare.

The Egg Industry in South Africa impacts on various areas of importance and relevance to the South African public and their rights. After researching these impacts, they were categorised into six main Pillars being: Animal Welfare; Environment; Food Safety and Health; Social Issues and Rights, Consumer Protection, and Corporate and Business. Each of these Pillars is expanded on in further detail in this Section III below, with the Animal Welfare Pillar being the focus for purposes of this Initial Report. Each Pillar introduces the relevant issue in broad terms, explores some ways in which the issue intersects with the Egg Industry, and sets out at a high level the regulatory framework applicable to the issue in South Africa. Some Pillars also contain examples of the issue in practice.

One of the aims of the Project is to foster public interest in the South African regulatory regime as it pertains to the Egg Industry. This benefits the public generally as well as other animal advocacy organisations, who conduct important work in areas outside of the law. Many such organisations are not fully aware of the legal framework including all of the relevant laws, policies, standards, etc.) and are therefore not able to draw on relevant legal materials in their engagements whether it be with government, Corporations, or the public more generally. Governance measures, including the law, are important tools to understand and can assist in important animal advocacy efforts.

Accordingly, by laying the foundations, laying out the facts, and laying down the law in respect of each of the aforementioned Pillars, members of the public, animal advocacy groups, and others may begin to understand their rights and interests as well as the areas in which they can pursue Corporate Accountability.

MOTHER HENS AND THEIR CHICKS TREATED CRUELLY JUST FOR OUR EGGS



HENS

While hens naturally lay eggs as part of their reproductive cycle, the way they are used in the modern-day egg industry is anything but **NATURAL**

NUMBER OF EGGS¹

Naturally, in the wild, hens would lay one clutch per year, consisting of 12 or so eggs. **BUT** on factory farms, hens lay an egg nearly every single day. Nearly 3,000% increase in egg production is far from "NATURAL"

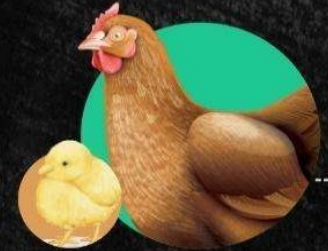


LIFE EXPECTANCY²

Naturally, the average life span of a hen is between 10-20 years. **BUT** when used in intensive egg production, a hen's life span is approximately 24 months.

DENIED THEIR CHILDREN

Naturally, hens are excellent moms and carers of their baby chicks **BUT** as egg layers, they are denied the ability to be mothers and care for their young.



TREATED LIKE A COMMODITY

Mother hens are not treated as living sentient beings with intrinsic value, but instead are treated as mere commodities.

CHICKS

MALE CHICKS = USELESS TO EGG INDUSTRY = CONSIDERED AS WASTE AND "DISPOSED OF" IN EXTREMELY CRUEL WAYS.

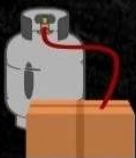
DAY OLD MALE CHICK KILLING AKA "CULLING"

Gassing and maceration (grinding up while still alive) of chicks are considered practical and acceptable methods to get rid of or "dispose" of these babies.³ Thousands upon thousands of baby day-old male chicks are killed this way regularly.



GASSING

Placing in a container and exposing chicks to gas for a long enough period so as to cause death.



MACERATION / GRINDING UP

= grinding baby male chick while still alive, along with other waste such as the egg shells and stillborn chicks.



DUMPING

Male chicks have also been found dumped at refuse sites whilst still alive.⁴



Dependent on breed and species

1. <https://thehumansociety.org/article/egg-production>

2. <https://www.eggtruth.com/life-of-a-hen>

3. South African Poultry Association Code of Practice June 2022 available at <https://www.sapoultry.co.za/wp-content/uploads/2022/06/2022-SAPA-COP.pdf>

4. NSPCA Refutes Layer Hen Cage Sizes in South Africa available at <https://nspca.co.za/nspca-refutes-layer-hen-cage-sizes-in-south-africa/> (accessed on 13 April 2023)

PILLAR 6: GOLDEN EGG: CORPORATE AND BUSINESS: THE NECESSITY FOR CORPORATE ACCOUNTABILITY

PART A: LAYING THE FOUNDATIONS

This “Corporate and Business Pillar” contains a high-level summary of some of the corporate and business considerations applicable to the Egg Industry in South Africa, as well as the regulation thereof, more specifically how these issues intersect with animal welfare and well-being. It is intended to provide an overview of selected matters only and is non-exhaustive of all of the relevant corporate and business considerations and law and policy relevant to the industry.⁶⁶⁴ This Part A sets out the rationale for the selection of this Pillar; the main national government departments with mandates in respect thereof; and how it connects with our Stakeholder Report in Section IV. Part B sets out background information as to how the Pillar connects with the Egg Supply Chain. Part C provides an overview of selected governance issues associated with this Pillar in the context of the Egg Supply Chain in South Africa. Part D provides examples of the other Parts in practice.

Matters dealt with in detail in other Pillars or sections of this Initial Report and have not been repeated. As one of the main focus areas of this Project is Corporate Accountability, this theme has emerged throughout the Report.

The rationale for including this as a separate Pillar is that this is a newer area in the context of animal law and animal protection, and there are regulatory considerations that do not necessarily fall neatly into the other Pillars to be considered. Given that the emphasis of this Project is Corporate Accountability, this Pillar intersects with all other Pillars discussed in different ways, such as in respect of the duties that Corporations have in relation to other Pillars (e.g., Corporations’ duties towards the environment and Corporations’ duties towards the protection of consumers, etc.).

This Pillar has been selected for purposes of this Project as it falls under ALRSA’s Corporate Accountability Programme, premised on the idea that Corporations operating in South Africa owe moral and legal duties to everyone whom their operations are affecting pursuant to South Africa’s constitutional regime. These duties extend beyond shareholders, directors, investors, management,

⁶⁶⁴ For a more detailed analysis of business and corporate matters applicable to animal agriculture in South Africa, please refer to ALRSA’s Food System Working Paper <https://www.animallawreform.org/wp-content/uploads/2022/07/Working-Paper-Food-Systems.pdf> and White Paper (October 2022) <https://www.animallawreform.org/wp-content/uploads/2022/10/White-Paper-Food-Systems.pdf> respectively.

customers, suppliers or even employees and other personnel. They are owed to the public at large and animals.

That being said, due to their role and dominance in society and influence on regulation, corporations are often the worst offenders in terms of the infringement of rights and interests. Conversely, they have immense power to change the *status quo* for the betterment of all.

Some legislation discussed under this Pillar falls under the mandate of the **DTIC**, for example, the Companies Act. While not discussed, the Competition Act could be relevant and ought to form part of a future research agenda.

In the context of researching this Pillar and developing the Stakeholder Component of this Initial Report, we requested Selected Stakeholders provide access to their Annual Reports.⁶⁶⁵ Furthermore, we requested access to Selected Stakeholders' animal-welfare centred Internal Policies. ALRSA is of the view that Internal Policies that expressly address Cruel Practices; provide for Progressive Measures to address these practices; and indicate mechanisms ensuring compliance, are indicative of a Selected Stakeholder adopting an accountable approach to animal welfare. Annual Reports, specifically addressing animal welfare measures and publicly reporting on Progressive Measures to address Cruel Practices reinforce corporate accountability.

As such, responses received from Selected Stakeholders informed specific Criteria and Indicators, namely, Criteria 1 (inclusive of Indicators 1.1 – 1.6), which assessed whether Selected Stakeholders provided evidence of animal welfare-centred Internal Policies. Furthermore, Annual Reports provided by Selected Stakeholders were analysed and informed Criteria 2 (inclusive of Indicators 2.1 -2.4), which assessed whether the Selected Stakeholder provided access to Annual Reports that report on relevant animal welfare.

PART B: LAYING DOWN THE FACTS

Businesses have a responsibility to the societies around them through work being done in the areas often referred to broadly as “Business and Human Rights”, “Business and Environment” and “ESG”. However, Corporations are lagging behind when it comes to recognising their duties towards animals as well as how their duties towards humans and the environment intersect with their duties towards

⁶⁶⁵ The Annual Reports, Integrated Annual Reports, Sustainability Reports and/or Environmental Social and Governance (“ESG”) Reports and similar records of a Selected Stakeholder for the period of 1 November 2018 to 30 November 2022, requested by ALRSA. These documents are distinct from Internal Policies (as defined in this Initial Report) and are generally tabled with and approved by the boards and shareholders of stakeholders. Annual Reports are often available in the public domain.

animals. This is apparent from our Stakeholder Component and the responses we received to our requests for information in terms of PAIA as further set out in Section IV.

This Initial Report aims to assist with establishing discourse around the duties of corporations operating in the animal use industry, particularly the Egg Industry, as well as the consideration as to whether Corporations have duties towards animals. It aims to help stakeholders understand how they can manage risks and opportunities around animal issues which impact sustainability issues.

Corporations, including those involved in industrial, intensive animal agricultural operations, are some of the worst abusers of animals.

As discussed above, the Constitution’s horizontal application means that non-state actors such as Corporations are responsible for and have duties in respect of human rights.

BUSINESS AND HUMAN RIGHTS

Due to the major role that Corporations have on society and specifically human rights, there is increasing recognition that Corporations have an important role to play in the achievement as well as non-infringement of human rights.

One prevalent international example is the UN Guiding Principles (UNGPs) on Business and Human Rights, adopted by the UN Human Rights Council by Resolution 17/4 on 16 June 2011. The UNGPs are a set of 31 principles directed at governments and businesses that clarify their duties and responsibilities in the context of business operations.⁶⁶⁶ According to the United Nations Development Programme (UNDP),

*“[t]he UN Guiding Principles on Business and Human Rights (UNGPs) – the most authoritative and widely adopted set of principles for responsible business, endorsed in 2011 – call on both governments and companies to identify, prevent, mitigate, and remedy actual and potential human rights abuses. The UNGPs are not only a guide to help businesses respect human rights in their operations, they are also a roadmap for businesses to contribute to the SDGs”.*⁶⁶⁷

The SDGs as further discussed in the Environmental Pillar above. This is an area of research and work which is growing, and which could be built on further in subsequent phases of the Project following this Initial Report.⁶⁶⁸

If the argument is accepted that there are duties on corporations to protect and promote human rights (as required in terms of the horizontal application of the Constitution in section 8), and that human rights are impacted by the practices of Corporations in the Egg Industry (as further set out in the

⁶⁶⁶ <https://www.undp.org/laopdr/publications/guiding-principles-business-and-human-rights>.

⁶⁶⁷ United Nations Development Programme: <https://www.undp.org/rollr/business-and-human-rights>.

⁶⁶⁸ For example, David Bilchitz, *Fundamental Rights and the Legal Obligations of Business*, Cambridge University Press, October 2021. ISBN: 9781108895224. DOI: <https://doi.org/10.1017/9781108895224>.

Animal Welfare Pillar and Social Issues and Rights Pillar, among others which include in relation to the right to environment (section 24); the right to access to information (section 32); the right to freedom of expression (section 16); the right to freedom and security of the person (section 16); the right to food and water (section 27); and rights relating to children (section 38) and workers (section 23), among others), then it can be alleged that Corporations operating in the Egg Industry have particular corresponding duties in respect of those rights, and potentially others, in respect of their operations that require careful consideration. These need to be properly adjudicated on by the courts in order to determine whether such duties are applicable and the extent of such duties.

SEPARATE LEGAL PERSONALITY

Importantly, in South Africa, Corporations are largely considered as legal persons, or legal subjects, such that the business or legal entity is considered to be separate from that of its directors, shareholders, employees, etc. While there are several advantages of this status, and it is important for the entity to function, it immunises individuals from liability and thus inhibits accountability. This is often referred to as “limited liability” or the “corporate veil”.

PIERCING / LIFTING THE CORPORATE VEIL

In some instances, the protections of limited liability are lost when the “corporate veil is pierced or lifted”. This means individuals involved in a Corporation can become personally liable for debts, wrongdoings, or claims of the corporation. This could mean their personal assets are surrendered and cause substantial hardship, among others.

Increasingly, activists are utilising the court system to bring cases that seek to pierce the corporate veil in respect of environmental and climate issues and infringements.⁶⁶⁹ Accordingly, it is a possibility that individuals involved in other harmful industries, such as in animal agriculture (including the Egg Industry) could similarly be considered in such litigation, when appropriate.

FIDUCIARY AND GENERAL DUTIES OF DIRECTORS

Various stakeholders in Corporations including, most notably, directors (and other prescribed officers) have fiduciary responsibilities and duties. These are contained in various sources including but not limited to the common law; the Companies Act; the relevant Corporation’s Memorandum of Incorporation, or internal policy and operating documents; and duties in specific legislation such as those described in the Environmental Pillar above (see NEMA).

⁶⁶⁹ <https://www.levernews.com/piercing-the-corporate-climate-veil/>
<https://www.iucnael.org/en/documents/1296-piercing-the-corporate-veil>.

and

SOCIAL LICENSE TO OPERATE

While not a legal norm and with no universal definition, the social license can be defined as existing when a project has the ongoing approval within the local community and other stakeholders, ongoing approval or broad social acceptance and, most frequently, as ongoing acceptance.⁶⁷⁰

This is distinguishable from other licences or permits required by a business by law for their operations (for example, environmental permits for business activities defined in environmental legislation). This social license to operate indicates a social dimension to doing business which gives the power to the public or society (as opposed to the government of Corporations). The social license to operate means that if activities are considered by a community to be unacceptable, a Corporation can lose this social license or support, and experience hardships - which can ultimately impact on their bottom line (profits or financials).

In the context of animals, and the Egg Industry in particular, a Corporation has the potential to have its social license to operate removed or “revoked” if the public deems certain practices (for example the Cruel Practices), to be unacceptable, which can have implications for their business.

PART C LAYING DOWN THE LAW

REGULATION OF THE EGG INDUSTRY: THROUGH A BUSINESS AND CORPORATE LENS

In South Africa, there are a plethora of laws and policies which regulate Corporations and their operations, activities, liabilities, etc. For purposes of this Pillar a few specific laws will be referenced, namely: the Companies Act; King IV Code; Companies’ Internal Legal Documents and Internal Policy Documents.

In his upcoming work, Bilchitz⁶⁷¹ attempts to answer a relatively neglected question, namely, the legal possibilities that exist in South Africa for holding corporations to account for harms caused to the interests of animals. He identifies four primary means through which corporations could arguably have duties to protect animal interests being:

- **Duties flowing from the Constitution / Corporate Social Obligations:** He explores the foundational document of South African law – the Constitution – and argues that Corporations are bound to act within

⁶⁷⁰ Social License Website <http://sociallicense.com/definition.html>.

⁶⁷¹ David Bilchitz, *Corporate Accountability Towards Animal Well-Being: Exploring The Legal Possibilities*, Forthcoming in “Animal Law and Welfare in South Africa” edited by Melanie Murcott and Amy P. Wilson, Taylor and Francis (2024).

the boundaries set by the Constitution, pursuant to the fact that the Bill of Rights applies horizontally (between private entities and individuals). Those boundaries include a recognition of the intrinsic value of individual animals and the importance of respecting animal welfare. Therefore, Corporations have obligations to act in a way consonant with these recognitions.

- **Duties from Animal Protection / Welfare Legislation** He further argues that corporate duties flow directly from animal welfare legislation
- **Duties from the Corporate Governance Framework:** fiduciary duties (including a duty to consider and address the harmful effects of corporate activity on animals). Furthermore, that social and ethics committee should engage with and report on the effect of corporate activities on animals. Additional requirements arise including in respect of reporting from the King IV Report on Corporate Governance, including a consideration of corporate impacts on animals.
- **Duties from Consumer Protection Law:** that the possibilities that exist within consumer protection law and softer ethical frameworks for ensuring corporations do not present misleading information about their treatment of animals and that there is a need for a positive duty actively to inform consumers about the treatment of animals by corporations.

COMPANIES ACT

The Companies Act, 71 of 2008⁶⁷² has various aims relating to Companies in South Africa. There are numerous provisions which find relevance in a discussion around corporate accountability, a few of which are highlighted.

The purposes of the Act include (section 7):

“(a) promote compliance with the Bill of Rights as provided for in the Constitution, in the application of company law;

(b) promote the development of the South African economy by:

... (iii) encouraging transparency and high standards of corporate governance as appropriate, given the significant role of enterprises within the social and economic life of the nation

d) reaffirm the concept of the company as a means of achieving economic and social benefits”.

The “social significance” of a company is considered as a factor in determining duties of a Company, for example, requirements to produce annual financial statements (section 30).

Reference is also made to “Social and Ethics Committees” of companies, with it being a requirement for companies to have such a board committee and additional prescribed requirements for the functioning of such a committee.

⁶⁷² <https://www.gov.za/documents/companies-act>.

There are detailed provisions on the governance of Companies in Part F including fiduciary and general duties (which are also contained throughout the act) as well as in the documents governing a corporation including but not limited to its Memorandum of Incorporation (“**MOI**”).

The above sections illustrate tangible legal obligations of Companies operating in South Africa relating to social and ethical obligations. These indicate an expansion beyond obligations and duties to internal personnel towards society more broadly.

KING IV CODE

While not hard law in the form of legislation like the Companies Act, the King IV Code (“**King Code**”) is an important South African corporate governance code. The aim of the code is to provide a practical, principle-based approach to good corporate governance, which also incorporates both global public sentiment and international regulatory change.⁶⁷³

According to Beyond Governance, the Code has a number of aims all of which are crucial to building and retaining value and creating a better society:

- create an ethical culture in organisations;
- improve the organisation’s performance and increase the value they create;
- ensure there are adequate and effective controls in place;
- build trust between all stakeholders;
- ensure the organisation has a good reputation; and
- ensure legitimacy.

Again, provisions and aims in this code indicate an expansion beyond duties within a Company to internal stakeholders to society more broadly.

BENCHMARKING INITIATIVES

In addition to legislation already mentioned and governance measures such as the King IV Code, other third-party initiatives are used as mechanisms by companies to ensure good governance. One example is the FAIRR Initiative (FAIRR) is a collaborative investor network that raises awareness of the environmental, social and governance (ESG) risks and opportunities in the global food sector.

⁶⁷³ <https://beyondgovernance.com/king-iv-code/>.

PART D: EGG-SAMPLES OF CORPORATE AND BUSINESS MECHANISMS

INTERNAL POLICIES

In addition to third party certifications, companies can and should also specify their own requirements for themselves and entities within their supply chain to the extent possible when it comes to animal welfare. These policies should be made publicly available, and consumers should be able to question the corporation on their policies, request information to show they are compliance with these statements and, if relevant, challenge the Corporations on them. This will ensure greater transparency and accountability.

Example: Woolworths

For example, the Woolworths Animal Welfare Policy⁶⁷⁴ states the following:

In respect of mutilations:

*“We recognise that a number of routine mutilation measures are used to abate anxiety traits in animals (e.g. hen pecking, tail biting, and aggressiveness) which may endanger farmer and/or livestock safety, and which may develop in part due to animal boredom and close confinement. As a result, we will promote first, the use of enrichment methods as well as reduced confinement in our private label fresh meat products as an alternative to routine mutilations associated with boredom in animals due to barren landscapes and over-crowding - e.g. including teeth clipping, tail docking and **beak trimming**. Where these practices are deemed absolutely necessary, we encourage the use of the best available technique causing minimum distress, for example:*

The use of infrared for beak trimming in hens.

The use of anaesthesia or analgesia applied in the presence of a veterinary surgeon, for the all of the following: Castration of cattle, pigs (including piglets) and mutton; de-horning or de-budding of cattle; teeth clipping in piglets; tail docking in piglets and lamb. We prohibit mulesing of lamb or mutton.”

⁶⁷⁴

https://www.woolworths.co.za/images/elasticera/New_Site/Corporate/Woolworths_Animal_Welfare_Policy_and_Position_Statement.pdf.



675

Their policy from 2016 currently available online, states:

*“Woolworths is proud to have been the first major local retailer to stop selling whole eggs from hens kept in cages in 2004, and has achieved 95% free range egg for all egg ingredients in private label products”.*⁶⁷⁶

In respect of transparency and reporting:

“Transparency and Reporting We will be transparent about our progress and publish periodic updates on the commitments we have made”.

Example: SPAR

Unlike Woolworths, SPAR does not have a specific animal welfare policy but rather a general sourcing policy which references animal welfare. SPAR’s general sourcing policy states:

*“SPAR is committed to providing customers with a wide range of fresh and dry goods that are locally and/ or sustainably sourced. SPAR Partners across the globe continue to develop ways to provide customers with products that are produced under conditions with a reduced impact on the environment, promote animal welfare, and provide equal opportunities for farmers and fishermen”.*⁶⁷⁷

⁶⁷⁵ https://www.woolworths.co.za/images/elasticera/New_Site/Corporate/GBJ_2022_Animal%20Welfare.pdf.

⁶⁷⁶

https://www.woolworths.co.za/images/elasticera/New_Site/Corporate/Woolworths_Animal_Welfare_Policy_and_Position_Statement.pdf.

⁶⁷⁷

<https://spar-international.com/responsible-retailing/sourcing/>.

Example: Pick n Pay

ADVANCING SUSTAINABLE SEAFOOD

Pick n Pay is a recognised leader among African retailers in advancing sustainable seafood sourcing and providing customers with the best environmental choices. We drive change throughout our seafood supply chain to mitigate the risks of over-fishing.

Pick n Pay has been working closely with WWF-SASSI for the past 10 years, and in 2011 we became the first retailer in Africa to make the commitment to only sell sustainable seafood. Since then we have invested R15 million in the WWF Sustainable Fisheries Programme (SFP).

We continue to make progress towards our target of all our seafood products being sustainably sourced. Currently, 83% of our seafood products by species and 95% of our products by sales either meet credible sustainability standards or come from fisheries that are actively improving their environmental sustainability performance.

We are dedicated to ensure that all our seafood complies with at least one of the following criteria by 2019.

OUR COMMITMENT

- 1 IT IS CERTIFIED AS SUSTAINABLE BY THE MARINE STEWARDSHIP COUNCIL FOR WILD CAUGHT SPECIES
- 2 IT IS CERTIFIED AS SUSTAINABLE BY THE AQUACULTURE STEWARDSHIP COUNCIL FOR FARMED SPECIES
- 3 IT IS CATEGORISED AS 'GREEN' BY WWF-SASSI
- 4 IT IS SOURCED FROM CREDIBLE, TIME-BOUND IMPROVEMENT PROJECTS

ACKNOWLEDGMENTS AND LEGAL

ANIMAL LAW REFORM SOUTH AFRICA

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ALRSA is a civil society organisation and registered non-profit company and NPO acting in the public interest.

ACKNOWLEDGEMENTS

FUNDING

Our work is in part funded by a grant from the Open Wing Alliance ("**OWA**"). Read more on their website: <https://openwingalliance.org/>.

CO-AUTHORS' DISCLAIMER

The co-authors of this Initial Report are:

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COMMENTER

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CONTRIBUTOR: RESEARCH ASSISTANCE

Li-Fen Chien is an Independent Consultant with Animal Law Reform South Africa. She holds a Master of Laws Degree (LL.M) in Environmental Law from the University of the Western Cape. Li-Fen is a non-practising legal practitioner with over 10 years of professional experience, mostly focused on environmental and corporate law. *Primary contributions: Animal Welfare Pillar and Environmental Pillar of Section III of this Initial Report.*

*PLEASE READ OUR LEGAL AND DISCLAIMERS SECTION.

PLEASE CONSULT OUR GLOSSARY FOR A LIST OF DEFINED TERMS. Unless the context otherwise requires, capitalised terms have the meanings ascribed to them in the Glossary.

Recommended citation: Animal Law Reform South Africa, *Laying Down the Facts* (August 2023). Available at: www.animallawreformsouthafrica.org

This Initial Report and other information relating to the Project are accessible at: www.animallawreformsouthafrica.org

We welcome comments, corrections, suggestions on and proposed amendments to this Initial Report including by the Selected Stakeholders.

We remain committed to engaging in an open and transparent manner in respect of this Initial Report. We reserve the right to amend this Initial Report.

Please email: outreach@animallawreform.org

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LEGAL AND DISCLAIMERS

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 Initial 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 South African 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 Initial 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 Initial Report.

As an organisation focused primarily on animal law, this is the predominant lens through which this Initial Report has been drafted and should be considered, i.e., the centering of animals, their interests, and their intrinsic worth in the dialogue. 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. This Initial Report does not intend to defame or harm the reputation of any company mentioned within.

This 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 3 August 2023 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 and food systems and requiring 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.

It is also important to note that the focus of this Initial Report is on industrialised animal agricultural operations and practices occurring therein. Given the various types of systems, these all have different considerations and consequences. Statements, observations and recommendations do not and 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.

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 Initial Report. Statements made will not apply to all facilities and stakeholders and should not be construed as such.

This 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 Initial 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 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 Initial Report and neither ALRSA nor the co-authors or commenter shall have responsibility or liability to any party, whether in contract, delict (including negligence) or otherwise relating hereto.

This Project has been conducted and this 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 freedom of expression as contained in the Constitution of the Republic of South Africa, 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 Initial Report does not constitute legal advice.

Any views and opinions expressed in this Initial Report are those of the relevant co-author or commenter and do not necessarily reflect the views or positions of any entities they represent. Such opinions, views, comments, and expressions are protected under the right to freedom of expression as provided for in the Constitution. Neither ALRSA nor the co-authors or commenter accept any liability for any indirect or consequential loss or damage, or for any loss of data, profit, revenue or business (whether direct or indirect) in each case, or reputational damage, however caused, even if foreseeable.

Any resources or referenced materials, sources or sites included in this Initial Report do not constitute endorsement nor do ALRSA and/or the co-authors or commenter accept any responsibility for the content, or the use of same and we shall not be liable for any loss or damage caused or alleged to be caused by or in connection with use of or reliance on any content, goods or services available on or through any other resource.

None of the statements made or information presented in this Initial Report shall be considered as allegations against any person or entity, including the Selected Stakeholders of contravention of or offences in terms of any South African or international law and/or regulation. ALRSA declares that it has no malicious intent to defame, disparage, or harm the reputation of any person or entity, including the Selected Stakeholders, mentioned in this Initial Report. ALRSA aims to promote constructive dialogue and encourage responsible practices concerning animal welfare.

END.

REVISION NOTE I: SEPTEMBER 2024

This revision note documents the updates made to the report titled *Laying Down the Facts: Animal Welfare Standards of the Companies Providing Your Favourite Foods*, originally published by ALRSA in August 2023 (“**Version 1 of the Initial Report**”) and republished with these amendments in September 2024, regarding Bidcorp, a Selected Stakeholder featured in the report. The revision aims to uphold transparency and accountability throughout the reporting process of ALRSA’s Corporate Accountability Project.

ALRSA’S ENGAGEMENT WITH BIDCORP

On 25 November 2022, ALRSA submitted a request for access to information from Bidcorp under PAIA. On 23 December 2022, Bidcorp requested that ALRSA pay a fee to process the request. In the same correspondence, Bidcorp refused to provide the requested records but stated it would reconsider if additional documents were supplied by ALRSA (“**Bidcorp’s Refusal Letter**”).

On 13 February 2023, ALRSA responded, urging Bidcorp to reconsider its decision, rebutting the grounds for refusal, and stressing the importance of transparency and accountability when engaging with civil society. ALRSA requested a response by 20 February 2023 on an urgent basis. Bidcorp did not respond by this deadline. The Initial Report was therefore prepared based on the correspondence received from Bidcorp as of 20 February 2023.

Following the publication of the Initial Report in August 2023, ALRSA commenced the second phase of its multi-phase Corporate Accountability Project. As part of this phase, ALRSA submitted a request for access to information from Bidcorp on 4 December 2023. Bidcorp responded on 20 December 2023, alleging that certain statements in the Initial Report regarding Bidcorp were inaccurate and requested written confirmation that the inaccuracies had been corrected.

CORRECTIONS REQUESTED BY BIDCORP

Bidcorp claimed that:

1. Version 1 of the Initial Report incorrectly implied that Bidcorp was not entitled to request a PAIA fee, emphasising that no exemption exists for non-profit organisations to pay a request fee under the law.
2. Version 1 of the Initial Report falsely asserted that Bidcorp did not respond to its request for information after receiving payment from ALRSA, as it submitted a response on 13 March 2023.

ALRSA maintains that the statements on page 236 of Version 1 of the Initial Report, regarding Bidcorp's PAIA fee request and being the only stakeholder to do so, are factually accurate. As such, no amendments are required in this regard.

However, we acknowledge Bidcorp's subsequent, belated correspondence received on 13 March 2023 ("**Bidcorp's Belated Response**"), which granted ALRSA partial access to the requested records. In light of this, and in the spirit of constructive stakeholder engagement, we issue this revision note to reflect the impact of Bidcorp's Belated Response on the Initial Report.

CHANGES MADE TO THE INITIAL REPORT IN RESPECT OF BIDCORP

The following amendments have been made in Version 2 of the Initial Report in respect of Bidcorp:

DESCRIPTION OF AMENDMENT	PAGE NUMBER: VERSION 1 OF THE INITIAL REPORT	PAGE NUMBER: VERSION 2 OF THE INITIAL REPORT
Amended the overall rating for Bidcorp: changed from Red to Orange .	12	12
Amended the overall rating for Bidcorp: changed from Red to Orange .	234	234
Removed statement regarding ALRSA's correspondence with Bidcorp post-payment of the PAIA request fee: <i>"[o]nly for Bidcorp, a major Corporation, to then refuse access to any of the records requested on spurious grounds and with limited justification. Upon ALRSA making this payment, and providing further substantiation for our request, Bidcorp acknowledged receipt of the requested payment and undertook to respond to our request but did not do so beyond this acknowledgement."</i>	236 & 237	237
Amended ratings for Indicators 1.1, 1.3, 2.1, 2.3 and 2.5 of Rating Criteria 1 and 2: Internal Policies and Annual Reports changed from Red to Green , Orange , Green , Orange , and Orange respectively.	238	238
Amended ratings for Indicators 3.1–3.2 and 4.1 of Rating Criteria 3 and 4: Compliance with Relevant Legislation and Evidence of Adverse Findings changed from all Red to all Green ratings.	241	241
Amended the colour rating for Indicator 5.3 of Rating Criteria 5 and 6: Evidence of Relevant Commitments and Contents of Public Statement changed from Green to Red . <i>*Note – The Green rating awarded to Bidcorp for</i>	244	244



DESCRIPTION OF AMENDMENT	PAGE NUMBER: VERSION 1 OF THE INITIAL REPORT	PAGE NUMBER: VERSION 2 OF THE INITIAL REPORT
<i>Indicator 5.3 in Version 1 of the Initial Report was incorrectly awarded; it should have been a Red rating.</i>		
Amended the colour rating for Indicator 6.1-6.3 of Rating Criteria 5 and 6: Evidence of Relevant Commitments and Contents of Public Statement changed from Red to Orange .	244	244
Amended the ratings for Indicators 9.4 and 10.1 of Rating Criteria 9 and 10: Transparency and Cooperation Compliance changed from Red to Orange .	249	250

REVISION NOTE II: NOVEMBER 2024

This revision note formally documents updates to the report *Laying Down the Facts: Animal Welfare Standards of the Companies Providing Your Favourite Foods*, published by ALRSA in August 2023 (“**Version 1 of the Initial Report**”), and updated in September 2024 (“**Version 2 of the Initial Report**”). The revision addresses references to the “Egg Labelling Regulations” (“**Version 3 of the Initial Report**”) 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.

CHANGES MADE TO THE INITIAL REPORT IN RESPECT OF THE EGG LABELLING REGULATIONS

The following amendments have been made in this Version 3 of the Initial Report in respect of the Egg Labelling Regulations:

PAGE NUMBER: VERSION 2 OF THE INITIAL REPORT	PAGE NUMBER: VERSION 3 OF THE INITIAL REPORT
99-100	99-100
185-186	185-186



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