

TO: The Department of Agriculture, Land Reform and Rural Development (“**Department**” or **DALLRD**”)

ATT: Scientist Production, Directorate: Food Safety & Quality Assurance, Division: Animal and Processed Products

Per e-mail: Mr Simphiwe Mathenjwa: simphiweMat@dalrrd.gov.za

11 December 2024

Dear Honourable Representatives,

LETTER OF CONCERN AND OBJECTION RE: THE PROPOSED DRAFT MEAT ANALOGUES REGULATIONS INTENDED FOR SALE IN THE REPUBLIC OF SOUTH AFRICA: PROVEG SOUTH AFRICA AND ANIMAL LAW REFORM SOUTH AFRICA

I. BACKGROUND

We refer to the request for comments circulated by the Department on 25 October 2024 for the Draft Meat Analogue Regulations Relating to Meat Analogues Intended for Sale in the Republic of South Africa (interchangeably referred to the “**Draft Meat Analogues Regulations**” and the “**Draft Regulations**”), made by the Minister for Agriculture (the “**Minister**”) in terms of section 15 of the Agricultural Product Standards Act, 119 of 1990 (interchangeably referred to as the “**APSA**” and the “**Act**”).

ProVeg South Africa (“**ProVeg**”) and Animal Law Reform South Africa (“**ALRSA**”) (collectively referred to as “**Interested Stakeholders**” herein), are two civil society organisations acting in the public interest, write this letter to the Department to draw attention to several concerns relating to the Draft Meat Analogue Regulations, including the process followed by the Department.

We are of the view that the Draft Meat Analogue Regulations, as well as the process followed to produce them, present several significant flaws, which require urgent attention and revision. The Draft Meat Analogue Regulations contain inconsistencies; unclear and vague provisions and definitions; ambiguous terminology and overly broad prohibitions. Furthermore, they contain both gaps and overlaps with some potentially direct conflicts with existing governance that undermine their clarity and effectiveness. Without being prescriptive, one notable issue is the inclusion of cell-based (cultivated) foods, which is misplaced in the Draft Regulations, given that the focus is ‘meat analogues’. The mention of cell-based foods without clear definitions or guidelines introduces unnecessary confusion and deviates from the core objectives of the Draft Regulations. These and

other issues need to be addressed to ensure the regulations are coherent, relevant, and aligned with their intended purpose of regulating meat analogues in South Africa. Furthermore, the Draft Regulations must assist with ensuring that constitutional and consumer rights are protected and that members of the public are able to make informed and empowered choices relating to their food.

As such, the Interested Stakeholders will not be making a substantive submission in respect of the content of the Draft Meat Analogue Regulations, but reserve the right to do so in due course. Rather, we have focused for the purposes of this letter on procedural aspects, as further detailed in this letter. We have nevertheless documented in the required tabular form, certain high-level concerns and objections to the Draft Regulations to place these on record.

II. THE ROLE AND RELEVANCE OF THE INTERESTED STAKEHOLDERS IN THE PLANT-BASED / MEAT ANALOGUE SECTOR

We wish to provide clarity regarding the role of our respective organisations in the matter at hand and highlight the necessity for broader engagement with stakeholders in the meat analogue (including plant-based food) sector and industry (as well as additional representatives of civil society) on the Draft Meat Analogue Regulations.

A. ProVeg South Africa

ProVeg South Africa is a registered non-profit organisation (NPO number: 232-860) and the South African affiliate of ProVeg International, a global organisation dedicated to promoting plant-based diets and sustainable food choices, with its efforts actively dedicated to advocating for alternatives like plant-based meat analogues through campaigns, events, and educational initiatives, whilst empowering people and institutions to transform the global food system by promoting attractive plant-based and cultivated foods.

Accordingly, ProVeg South Africa has actively participated in the various submissions for comment which partly related to meat analogue products, but rather predominantly focused on regulations relating to meat products, which are two distinct processes. The importance of the distinction is to be contextualised and emphasised in respect of the participation of relevant stakeholders herein.

ProVeg South Africa, as an active stakeholder in the previous comment processes and meetings leading up to the release of the Draft Meat Analogue Regulations, has at all material times represented itself and did not act for or on behalf of any organisation or the plant-based industry more generally. As such, ProVeg South Africa should not be considered to be and does not hold

itself out to be a representative of the entire industry, consumers or other stakeholders in the plant-based (meat) industry.

Due to the distinct nature of these processes, namely, the one relating to ***Meat*** Product Regulations exclusive of meat analogue products, and the other solely relates to Proposed Draft ***Meat Analogue*** Regulations concerning plant-based products (the “**Distinct Processes**”), affecting the centre of our sole mandate as ProVeg and other separate pro-plant-based organisations, have directed this letter to the Department.

B. Animal Law Reform South Africa

ALRSA is a registered non-profit company and NPO (Number 238-234 NPO) acting in the public interest. ALRSA operates through three key Pillars, namely: Animal Flourishing; Social Justice; and the Law.

As an organisation focused on issues of animal, human and environmental justice, food systems governance and reform, as well as alternatives to animal uses (including animal-sourced foods), regulations relating to these aspects falls squarely within the purview of our vision and mission.

By way of example, ALRSA has previously provided detailed commentary and raised concerns on related documentation put forward by or relevant to the Department including but not limited to submissions on the:

1. Draft Regulations Relating to Farm Feeds in terms of Fertilizer, Farm Feeds, Agricultural Remedies and Stock Remedies Act (submitted 19 April 2019);¹
2. Draft Regulations regarding the Grading, Packing and Marking of Eggs intended for Sale in the Republic of South Africa (submitted 1 July 2019);²
3. Proposed Amendments to the Meat Safety Act 40 of 2000 (submitted 30 June 2020);³
4. Letter Response to the Department of Agriculture, Land Reform and Rural Development’s Communique to the Stakeholders of meat analogue products (30 June 2022);⁴
5. Meat Safety Act 40 of 2000 Exemption (submitted 23 November 2022);⁵
6. Processed Meat Regulation Regarding the Classification, Packing and Marking of Processed Meat and Certain Raw Processed Meat Products Intended for Sale (17 May 2024);

¹ ALRSA <https://www.animallawreform.org/wp-content/uploads/2019/08/12.-ALRSA-Comments->

² ALRSA <https://www.animallawreform.org/wp-content/uploads/2019/08/13.-ALRSA-Comments-on-Egg>.

³ ALRSA <https://www.animallawreform.org/wp-content/uploads/2020/07/ALRSA-and-EMS-Meat-Safety>.

⁴ ALRSA <https://www.animallawreform.org/wp-content/uploads/2022/07/Joint-Response>.

⁵ ALRSA <https://www.animallawreform.org/wp-content/uploads/2023/01/ALRSA-Meat-Safety>.

7. Submission relating to Plant-Based Foods and Meat Analogues: Amendment Regulations For Processed Meat And Certain Raw Processed Meat Products (submitted 11 October 2024); and
8. Request for Perception from the Meat Industry and Plant-based Meat Products Industry on the Proposed Common and Traditional Names in the Sale of Plant-Based Meat Products (submitted 16 October 2024).

among others, (collectively, “**ALRSA Submissions**”).

ALRSA has also provided commentary and recommendations to the Department regarding our country’s food system, including:

1. Working Paper titled “*Barriers to the Transformation of South Africa's Food System: Can the Law be a Lever for Change?*” (published on 18 July 2022);⁶ and
2. Food Systems White Paper titled “*Sowing the Seeds of Change: Towards a More Just and Inclusive Food System in South Africa*” (published on 16 October 2022),⁷

which focus largely on meat analogue products, and the regulation thereof.

C. **Non-Industry Representatives**

The Interested Stakeholders are thus independent civil society organisations, rather than industry representatives, committed to informing the Department of our concerns in relation to the sale of meat analogue products in South Africa, which are pivotal to the future of the plant-based (meat) and meat analogue sector. Our concerns include the protection of the interests of the industry, various consumer groups, including strict vegans, vegetarians, flexitarians, pescatarians, reducetarians, among others and furthermore the protection of animal and environmental interests.

The importance of engaging with stakeholders such as the Interested Stakeholders **as well as** meat analogue (including plant-based) producers/ manufacturers and other industry role players when developing regulations for meat analogues cannot be overstated. The meat analogue sector is a rapidly growing and evolving sector, consisting of diverse entities, perspectives and considerations. Engaging with such stakeholders is a critical part of ensuring the Department’s mandates relating to food security and production, and furthermore to advancing sustainable and ethical food systems.

⁶ ALRSA <https://www.animallawreform.org/wp-content/uploads/2022/07/Working-Paper-Food-Systems.pdf>.

⁷ ALRSA <https://www.animallawreform.org/wp-content/uploads/2022/10/White-Paper-Food-Systems.pdf>.

III. BACKGROUND TO THE OVERALL COMMENTS AND PROPOSED DRAFT MEAT ANALOGUE REGULATIONS

Whereas APSA's primary purpose is to regulate the sale and export of agricultural products, including meat, whilst ensuring the quality and safety of such concerned products, the Distinct Processes require input from different stakeholders: those concerned with meat products, and on the other hand, those stakeholders concerned with plant-based products. This warrants different attention and involvement by the separate stakeholders who are interested and affected by either of the Distinct Processes.

Informing the latter, the Department initially engaged in a consultative process whereby it requested comments from various stakeholders concerning the now promulgated regulations recorded as follows for ease of reference, as per their Government Gazette Notice:

1. Notice No. R. 5419, relating to the Regulations Regarding the Classification, Packing and Marking of Certain Raw Processed Meat Products Intended for Sale in the Republic of South Africa (the "**Certain Raw Processed Meat Products Regulations**"); and
2. Notice No. R. 5420, relating to the Regulations Regarding the Classification, Packing and Marking of Certain Raw Processed Meat Products Intended for Sale in the Republic of South Africa (the "**Processed Meat Products Regulations**").

(collectively referred to as the "**Amended Regulations**" as aforementioned).

While we actively participated throughout the commenting process of the Amended Regulations in safeguarding our interests, the Department is aware that at all material times, numerous concerns raised during the deliberations and commenting processes which were never resolved by the Department with the stakeholders concerning meat analogue products and their regulation remained, having a prejudicial outcome to meat analogue industry stakeholders, consumers and others.

IV. INTERESTED STAKEHOLDERS' INVOLVEMENT IN THE DRAFTING PROCESS OF THE DRAFT MEAT ANALOGUE REGULATIONS FOR MEAT ANALOGUES

To provide background and context to our procedural concerns set out below with the Department, we wish to highlight the timeline of events regarding our interaction with the Department on this issue.

On 18 July 2024, the Interested Stakeholders and others received an email from the Department acknowledging comments received on the Proposed Amendments to the Draft Regulations for Processed and Raw **Processed Meat Products** in May 2024. The Department provided the consolidated comments received, and the final draft of the Amended Regulations, noting that most comments received had raised the subject of meat analogues being excluded. As a result, the Department announced that a meeting would be held to address concerns regarding the exclusion of meat analogues from the Proposed Amendments to the Draft Regulations for Processed and Raw Processed Meat Products.

On 7 October 2024, the Interested Stakeholders and others were invited to attend a virtual meeting with the Department on 18 October 2024 to discuss the Amendment Regulations for Processed Meat and Certain Raw Processed Meat Products, which were published in the Government Gazette on 11 October 2024. Recipients of the email received from the Department were also asked to submit ideas for “traditional names” for plant-based meat products, “common names” for both meat and plant-based products, and “qualification criteria” for using these names within 5 working days, by 11 October 2024. ALRSA submitted their draft initial feedback to the Department on 11 October 2024. ProVeg South Africa was not able to provide feedback due to the extremely short timeframe provided, and other commitments.

On 15 October 2024, the Department invited the Interested Stakeholders and others to provide their views on proposed “sharing of common name[s] for meat and plant-based products” which were expanded on following feedback that the Department received, within 1.5 working days, by noon on 17 October 2024. ALRSA responded to the Department’s request on 15 October 2024, expressing concern that the 1.5 day timeframe was insufficient for addressing the complex issues in the document. ALRSA requested that more reasonable deadlines be set to allow for proper engagement, especially given that the previous deadline provided had also been too short, limiting some stakeholders’ ability to submit their comments. On 16 October 2024, the Department responded to ALRSA, explaining that the purpose of the process was to gather stakeholder perceptions, which would be addressed in the meeting scheduled for 18 October 2024. The Department dismissed ALRSA’s concerns about the tight timelines, asserting that stakeholders involved in the production of plant-based meat products should already possess a list of product names, and that some manufacturers had promptly submitted their lists. ALRSA submitted their draft initial feedback to the Department on October 16, 2024. ProVeg South Africa was not able to provide feedback due to the extremely short timeframe provided, and other commitments.

On 18 October 2024, the Interested Stakeholders participated in a meeting with the Department and other parties to discuss proposals concerning meat analogues. These proposals were intended for inclusion in the draft regulations for meat analogues, which were being prepared by the Department.

Subsequent to the meeting with the Department on 18 October 2024, the Department has sought, through the unilateral decision of its Executive Officer, to proceed to circulate the Draft Meat Analogue Regulations to the Interested Stakeholders and others, thereby requesting their comments by 11 December 2024. As a preliminary, the latter process by the Department is irregular and unfounded. We now turn to deal with some of our initial non-exhaustive concerns regarding the Department's request for comments on the Draft Meat Analogue Regulations.

V. OVERALL CONCERNS WITH AND OBJECTIONS TO THE PROPOSED DRAFT MEAT ANALOGUES REGULATIONS

The Department has requested that we submit comments on the Draft Meat Analogue Regulations, despite the rushed and irregular procedure followed by the Department in this process and the disproportionate and unfair engagement with representatives of the incorrect sector and industry. Due to the reasons expanded on in this letter, we wish to place on record our objection to the Draft Meat Analogue Regulations in their entirety (and the process by which they have been drafted) and therefore we will not be submitting our detailed comments on each and every regulation to the Department using the 'Template for Comments' document provided by the Department (see more on **Appendix II**). We accordingly reserve the right to provide a more detailed submission to the Department at a later date, expand on our concerns and/or to take any other appropriate actions.

A. CONCERN AND OBJECTION TO THE OVERALL INSUFFICIENT TIMEFRAME FOR COMMENTARY ON DOCUMENTS PROVIDED BY THE DEPARTMENT

General concerns relating to timeframes

The Interested Stakeholders object to the timeframe provided by the Department for submitting comments on documents, feedback and inputs that preceded the Draft Meat Analogue Regulations.

Currently, as at the date of this letter, there are no regulations in South Africa for meat analogue products. This gap exists because the Department had previously made the decision to remove meat analogues from the aforementioned (animal-sourced foods) Amended Regulations, creating a self-inflicted regulatory void that the Department is now rushing to fill without due consideration for the complexities of the subject matter.

The Interested Stakeholders and other stakeholders involved in and/or excluded from the process should not be placed in a prejudicial position due to the Department's oversight in removing meat analogues without a clear plan for the regulation of meat analogues in place. ALRSA, among others, raised these concerns in their submissions to the Department regarding the draft Amended Regulations.

As mentioned above, the Interested Stakeholders and other stakeholders were first informed of the

Department's intention to convene a meeting to discuss the status of meat analogues in South Africa in July 2024. However, the process was abruptly expedited in October 2024, providing stakeholders with less than 10 calendar days (from 7 October 2024 to 17 October 2024) to submit comments on two separate documents ahead of the meeting scheduled for 18 October 2024.

In its email to the Department on 16 October 2024, ALRSA highlighted that the extremely limited timeframe was insufficient to properly address the complex issues presented. However, these concerns were dismissed by the Department.

It is critical to recognise that several of the stakeholders included in the Department's correspondence, including the Interested Stakeholders, are not industry representatives but rather civil society organisations acting in the public interest. These organisations often operate with constrained time and resources. Accordingly, the rushed timeline has significantly impeded affected stakeholders' ability to engage meaningfully with the documents, including Interested Stakeholders. By failing to consider the constraints faced by stakeholders and their need for adequate time to review and respond to the Department's requests, the Department has undermined the inclusivity and fairness of the consultation process.

Inadequate Timeframe Considering the Festive Season

The Interested Stakeholders object to the timeframe provided by the Department for submitting comments, dating from 25 October 2024 to 11 December 2024.

In addition to the above concerns, in relation to the Draft Regulations, the time allocated is insufficient to allow stakeholders to make meaningful submissions, particularly considering the time of year. Many businesses, organisations, and other entities experience reduced capacity during the month of December due to festive season shutdowns. Limited staffing and operational constraints during this period hinder the ability of stakeholders to engage meaningfully with the Draft Meat Analogue Regulations.

B. CONCERN AND OBJECTION TO THE DEPARTMENT'S IRREGULAR CONSULTATION PROCESS

Irregular Consultation Process

We submit that the procedure followed by the Department is fundamentally irregular, as it fails to engage with the meat-analogue sector/industry - the primary concerned stakeholders in this matter, before soliciting comments. Proper mapping of stakeholders and consultation with this emerging sector is a necessary prerequisite to ensure informed and inclusive regulatory development. Furthermore, the Department is unfairly prioritising the inputs and interests of stakeholders in a competitive industry / sector.

Concern and Objection to the Department's Selection of Stakeholders: Exclusion of Critical Stakeholders

The Interested Stakeholders object to the Department's selection of stakeholders to engage with on issues related to meat analogues and their regulations.

Rationale for Selected Stakeholders

From the email received by the Interested Stakeholders and others from the Department on 7 October 2024, it appears that the majority (if not all) of the stakeholders selected for this consultation process were selected based on their prior comments on the Amended Regulations for **processed and raw processed meat products**. In the context of governance relating to meat analogues, this approach to including mostly **meat- interested** stakeholders is problematic. It does not adequately include relevant stakeholders such as representatives of the plant-based food / meat analogue industry which would be seriously impacted by the Draft Regulations.

Lack of Plant-based and Meat Analogue Sector Representation

While the Interested Stakeholders, as representatives of the public, consumers, and with extensive expertise in the plant-based / meat analogue sector appreciate being included in the process, we note there is a clear lack of adequate representation from the plant-based /meat analogue sector/industry itself.

Currently, based on our best estimates, there are dozens of meat analogue (including plant-based) entities in South Africa, ranging from manufacturers, to wholesalers, to restaurants and retailers (among others). Some of these entities specialise solely in the manufacturing and production of plant-based foods, while others supply plant-based and other meat analogue type foods directly to members of the public (such as retailers, restaurants, etc.) in addition to a variety of other products. An illustrative, non-exhaustive example of some of such entities are included hereto as **Appendix I**. Notably, only a small handful of stakeholders on the email list for the Draft Regulations include representatives of such sector. In contrast, a large number of stakeholders included are from the meat / animal sourced food sector – including industry body representatives.

At this juncture, it is important to note that the meat analogue sector, including the plant-based (manufacturing) industry in South Africa is still in its infancy and lacks organised structures - including established industry body representatives. This is to be contrasted with the animal-sourced food sector which has existed includes several industry bodies (a few of which were included in the stakeholder list). This lack of specific organised structures and industry bodies requires the Department to undertake a thorough landscaping /mapping exercise to understand, identify and engage with as many relevant stakeholders in this emerging sector as is reasonably possible. It is

submitted that this should have been an approach followed by the Department and undertaken prior to the Department's engagement with stakeholders in July and October 2024. Instead, the Department has excluded from this process the vast majority of directly affected and impacted stakeholders.

At a minimum, we submit that affected stakeholders in the plant-based food / meat analogue (including production) sector should be afforded an opportunity to actively participate in this process from the beginning (and not only in the final public consultation process), including those invited to attend the clarification meeting on the Communique to the Stakeholders of meat analogues products⁸ held in June 2022 ("**Communique on Meat Analogues**").

Concern and Objection to the Department's Selection of Stakeholders: Inclusion of Non-Critical / Competitive Stakeholders (Meat and Animal Sourced Food Industry Stakeholders)

As indicated, many of the stakeholders engaged as part of this process, such as the South African Meat Processors Association ("**SAMPA**"); the South African Poultry Association ("**SAPA**"); the Red Meat Industry Services ("**RMIS**") and others, are part of the animal-sourced foods/ meat (production) sector/ industry, rather than representatives (and manufacturers) of meat analogue (including plant-based) products. Engaging with animal-sourced food and meat producers and role players on regulations for meat **analogues** is wholly inappropriate, as – not only are they are not the primary stakeholders producing or marketing these products, but they are the direct competitors of them in many cases. As such, representatives from the meat and animal sourced food industry should not have such an important role in this process and may have a vested interest in ensuring that the plant-based / meat analogue sector faces regulatory and other hurdles.

Proposal for Inclusive, Representative and Meaningful Consultations

We submit that the process undertaking in respect of the Draft Regulations should be more inclusive and representative, including of the relevant industry (plant-based and meat analogues) to ensure balanced and meaningful input.

The Department may argue that stakeholders are being afforded an opportunity to provide feedback before the Draft Meat Analogue Regulations are published in the Government Gazette for wider public participation. However, this approach is flawed for several reasons, as outlined above and below. Meaningful consultation must precede the drafting process, which should include robust engagement with representatives of the meat analogue sector and industry (including plant-based

⁸ DALRRD https://biz-file.com/f/2206/Communique_to_the_stakeholders_of_meat_analogues.

manufacturing) to ensure that their unique challenges, concerns, and perspectives are incorporated. By expediting this flawed process and failing to involve the correct stakeholders, the Department is wasting valuable time and resources. Stakeholders are being asked to comment on a document that has not been properly considered, leading to ineffective feedback that may not address the core issues at hand.

As the Department is no doubt aware, the principles of meaningful engagement, require the following of the correct procedure, and just administrative action, as enshrined in the Promotion of Administrative Justice Act 3 of 2000 (“**PAJA**”), which requires interested and affected parties to be consulted in a fair and transparent manner, contrary to what has been done by the Department. To this end, through the lens of section 33 of the Constitution of the Republic of South Africa, 1996 (the “**Constitution**”) and Section 3 of PAJA, the Department is obliged to afford interested and affected parties a reasonable opportunity to make representations and to ensure that all relevant factors are taken into account when it makes a decision.

A divergence from the above renders the process followed by the Department irregular, procedurally unfair and unreasonable. It is trite that our courts have emphasised the importance of meaningful engagement by organs of state, thus holding them to a higher standard to achieve the constitutionally entrenched principles of accountability and transparency in the decisions by public bodies.

Accordingly, a simple tick box exercise by the Department (with largely irrelevant stakeholders) falls short of these principles, importantly whereby the tick box concerns itself in this instance with the stakeholders of meat products, as opposed to stakeholders of plant-based products.

C. CONCERN AND OBJECTION TO LACK OF RELEVANT INFORMATION

Lack of Relevant Information

The Department has not provided critical information or resources to meat analogue (including plant-based) organisations, such as the Interested Stakeholders, to enable them to adequately assess the Draft Meat Analogue Regulations. Without access to such information, stakeholders cannot make informed and meaningful submissions, whether in support of or opposition to the regulations. For instance, stakeholders have not been made aware of the sources or rationale behind certain inclusions, such as the requirement that meat analogues must contain at least 16% protein to be sold in South Africa.

As such, this inclusion can only be considered to be arbitrary and without basis, since no similar requirement exists for animal-sourced foods. The lack of information, explanation and transparency

severely limits the ability of stakeholders to critically evaluate and respond to the proposed regulations, and renders the Department's inclusions arbitrary.

VI. PREJUDICE SUFFERED BY INTERESTED STAKEHOLDERS AND OTHER RELEVANT (UNREPRESENTED) PARTIES

As a result of the aforementioned issues, including the Department's irregular consultation; failure to consult the important stakeholders in the meat analogue (including plant-based meat) sector and industry and to provide sufficient time for those that had been included in the consultation process to make meaningful submissions, the Interested Stakeholders as well as other interested and affected parties excluded from the consultation process have suffered prejudice. These stakeholders have been denied a fair opportunity to participate in the decision-making process, and actively participate in providing comments and submissions in respect of the Draft Meat Analogue Regulations.

As mentioned above, the meat analogue sector / industry (including plant-based meat) is a young industry in comparison to the animal meat industry. In contrast to entities such as the South African Poultry Association ("SAPA"), the aforementioned SAMPA and other animal sourced food industry bodies (such as South African Pork Producers Organisation ("SAPPO")), stakeholders which were included in the decision-making process related to meat analogues, the plant-based meat industry does not have a centralised industry body acting as a representative body for this sector.

Further, despite certain role players making up the majority of market share in the meat analogue (including plant-based meat) sector / industry being party to certain engagement efforts with the Department, these entities are **not the only** role players in the market, nor do they represent the meat analogue / plant-based meat industry as a whole. It is therefore of utmost importance that the Department seeks to engage and include all or at least many of the role players in the industry in relation to the drafting of regulations for meat analogues as reasonably possible.

The irregular procedure followed by the Department could lead to meat analogue / plant-based meat producers incurring unnecessary costs and investing considerable time and resources in responding to the Draft Meat Analogue Regulations when they are published in the Government Gazette, without having been properly included in the initial consultation process. Crucially, meat analogue / plant-based meat producers face significant financial prejudice due to their exclusion from the consultation process, as they are unable to provide input on regulations that directly impact their operations, consumer preferences, future product development, sales, financial stability, and overall business viability. This lack of inclusion in the early stages could have devastating consequences for these businesses.

Still of importance, the Department has seemingly not collaborated with the relevant stakeholders and governmental departments in preparing the Draft Meat Analogue Regulations. Furthermore, there is uncertainty as to the rationale behind which stakeholders the Department selected to consult with prior to the drafting of the Draft Meat Analogue Regulations, and what meetings were held by the Department before drafting the regulations (and with whom) to ensure that the correct procedure is followed, if not for the inclusion of all stakeholders.

Additionally, the Department has not made mention of where the information was obtained and utilised to prepare the Draft Meat Analogue Regulations, with no reference to foreign jurisdiction considered, nor international standards for meat analogues. This remains significant as international regulations that prevent certain words from being used, or mandate the inclusion of certain language, are required to be considered to ensure alignment with foreign export of these meat analogue products.

Of particular concern is the impact of the Draft Meat Analogue Regulations on consumers. While at the heart of the intention behind the creation of the Draft Meat Analogue Regulations undertaken by the Department is alleged to be consumer protection, little awareness has been created to the protection of consumers about inaccurate labelling of health, environmental and animal welfare concerns associated with the production and consumption of animal sourced foods, including but not limited to meat products currently sold. Despite this, significant emphasis is placed on addressing consumer confusion on meat analogues, which creates an unbalanced, unfair and disproportionate approach to consumer protection and awareness creation.

The Department's lack of consideration for case law directly related to meat analogues is evident in the irregular process followed by the Department. For instance, in 2022, in response to the aforementioned Communique on Meat Analogues, the Consumer Goods Council of South Africa ("CGCSA"), acting on behalf of a number of its members, being retailers and plant-based meat producers, brought an application for an urgent interdict against the Food Safety Agency, Minister of the Department and the Red Meat Industry Forum.⁹ The court ruled in favour of an interdict against the Department's decision to seize certain meat analogues. The court noted that the Respondents (including the Department) argued that "*any alleged harm that may be suffered is self-created, given that the members of the CGCSA knew that their products were non-compliant.*"¹⁰

⁹ *Consumer Goods Council of South Africa v Food Safety Agency (Pty) Ltd and Others* (015445-2022) [2023] ZAGPJHC 838 (25 July 2023).

¹⁰ Ibid at para 51.

Further, the court considered the impact of the seizure of meat analogues on affected parties, and stated that there is a “*risk of irreparable harm to it and its members, were the relief sought not to be granted and if all analogue meat products were seized, is manifest and self-evident.*”¹¹ This level of consideration to the potential impact that the Department’s decision would have on affected parties by undertaking activities affecting this newly-established, growing sector has been largely omitted by the Department within the drafting of the Draft Meat Analogue Regulations.

Accordingly, it is our submission, that the consultation in respect of the regulations relating to meat analogues needs to commence *de novo* (from the beginning). The Department should conduct a landscaping exercise to determine relevant stakeholders, and extend an invitation to the relevant plant-based / meat analogue sector representatives (particularly producers). In effect, the commenting process and intended undertaking by the Department would be moot without the input from those who make the products and those representing consumer interests respectively.

Whereby these irregularities are not rectified, the Interested Stakeholders, amongst other plant-based/ animal protection/ environmental protection/ consumer protection / other interested and affected organisations stands to suffer further prejudice, including being denied a meaningful opportunity to participate in the decision-making process, being subjected to regulations that may be unfair, unreasonable, or unconstitutional, and thus incurring further unnecessary expenses through the devotion of additional time and resources to challenging the irregular regulations. This is preventative at this juncture as currently the Draft Meat Analogue Regulations are uninformed and detrimental to economic growth of a growing sector for small businesses due to their voices not being heard.

VII. REMEDIAL ACTION AND REQUEST FOR INFORMATION

A. REQUESTS FOR INFORMATION

Given the potential prejudice experienced by the Interested Stakeholders, and inherent prejudice suffered by other potentially impacted stakeholders excluded from this process, coupled with the uncertainties surrounding the preparation of the current Draft Meat Analogue Regulations, we respectfully request the following from the Department:

1. A complete bundle of the relevant sources (information and documentation) relating and utilised to prepare the Draft Meat Analogue Regulations;

¹¹ Ibid at para 57.

2. A detailed consultation / engagement record of which stakeholders the Department consulted in the preparation of the Draft Meat Analogue Regulations; the feedback received and engagement with such feedback;
3. An indication of whether meetings were held with the relevant plant-based stakeholders before and during the drafting of the Draft Meat Analogue Regulations (aside from the meeting held with stakeholders including the Interested Stakeholders on 18 October 2024). If so, kindly furnish us with the meeting minutes for the meetings in question, and if not, kindly provide the reasons why such consultations were not conducted by the Department;
4. An indication of whether meetings were held with the animal-sourced foods including meat industry representatives before and during the drafting of the Draft Meat Analogue Regulations (aside from the meeting held with stakeholders including the Interested Stakeholders on 18 October 2024). If so, kindly furnish us with the meeting minutes for the meetings in question; and
5. Any other relevant information and documentation relating to the engagements and feedback.

B. REMEDIAL PROPOSED ACTIONS

1. A written undertaking that the Department will conduct a thorough landscaping exercise to determine the relevant stakeholders in the meat analogue sector / industry including plant-based producers and manufacturers, and other interested and affected parties (including those invited to attend the clarification meeting on the Communique on Meat Analogues held in June 2022); and
2. Confirmation regarding when the Department intends to re-initiate the consultation process regarding regulations for the sale of meat analogues in South Africa with the inclusion of relevant stakeholders in the meat analogue sector / industry including plant-based producers and manufacturers, and other interested and affected parties to allow for meaningful engagement on these issues and appropriate timing for submissions and concerns.

The Department is kindly requested to furnish us with a response within 30 days of our request, together with the requested information. Alternatively if the timeline is not possible, to provide a proposed timeline. We believe this information is essential to ensure transparency and accountability

in the regulatory process. Failure to remedy these irregularities and provide the requested information may be met with appropriate action.

We are and remain committed to meaningfully engaging with the Department and trust this letter will be received in the spirit of building a more co-operative, transparent, inclusive and meaningful participatory process.

VIII. CONCLUSION

We thank the Department once again for allowing the Interested Stakeholders the opportunity to engage in this matter and hope that the uncertainties raised herein will be responded to with haste.

We trust the Department is to be guided accordingly and that these irregularities are rectified going forward, not only for the sake of the Interested Stakeholders, but for any interested and affected stakeholder, as well as consumers concerned.

The Department is requested to acknowledge receipt of this letter.

Yours sincerely,

Donovan Will
Director
ProVeg South Africa

Amy P. Wilson
Acting Executive Director
Animal Law Reform South Africa

Appendix I: Illustrative, Non-exhaustive Example List of Companies that are manufacturing products that might be considered as Meat Analogues

1	Fry's	33.	Rooted
2	Simple Truth (Checkers)	34	Conscious Kitchen
3	Woolworths Plantlove	35	Plant
4	Vejoy	36	Lekker Vegan
5	Mccain	37	The Sunshine Food Sprouting Co
6	Kara Nichha	38	The Kind Kitchen
7	Spar Brand	39	Scheckters Raw
8	Sun C	40	Prashad
9	Sultaan'S	41	Green Fields
10	Vita Soya	42	The Fussy Vegan
11	Govinda	43	Earthshine
12	On The Green Side	44	Steers
13	Herbivore	45	Nourish'd
14	Irene's Gourmet		
15	Vegan Africa		
16	Soyatarian		
17	Denny		
18	Falafel King		
19	Naked Leaf		
20	Burger King		
21	Earthshine		
22	Herbi Vohr		
23	Outcast Foods		
24	Urban Vegan		
25	Lilah's Kitchen		
26	The Vegan Chef		
27	Mary Anne's		
28	Romeo & Vero Vegan Butcherie		
29	Oh My Cluck		
30	Vegan Street Food		
31	Seivory Snacks		
32	Lexis Deli		



Appendix II: Template for comments
DRAFT MEAT ANALOGUE REGULATIONS RELATING TO MEAT ANALOGUES INTENDED FOR SALE
IN THE REPUBLIC OF SOUTH AFRICA
(Deadline for comments: 11 December 2024)
ORGANISATION/ COMPANY: ProVeg South Africa and Animal Law Reform South Africa

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REGULATION NUMBER	PROPOSED CHANGE	MOTIVATION/ JUSTIFICATION FOR CHANGE
1	We reject this provision in its entirety. We recommend that the Department re-initiate the process to engage with relevant stakeholders on the Draft Regulations, which would inevitably lead to a re-drafting of this regulation and its contents. The Department should initiate this process by first undertaking a landscaping / mapping exercise of some of the most important and representative stakeholders within the meat analogue sector and industry. Thereafter, the Department should initiate sessions, inviting such stakeholders to engage on aspects to be covered by the proposed regulations, taking into account relevant feedback. Once a thorough, meaningful and consultative process has been followed, the Department should re-draft the Meat Analogue Regulations, considering the relevant information.	Please refer to covering letter from ProVeg South Africa and ALRSA for further detail relating to our concerns, objections and proposed changes. In summary, we have proposed this change due to concerns and objections to the process followed by the Department in drafting these Draft Meat Analogue Regulations. Such concerns include but are not limited to: 1. concern and objection to the overall insufficient timeframe for commentary on documents provided by the Department; 2. concern and objection to the Department's irregular consultation process; and 3. prejudice suffered by interested stakeholders and other relevant parties.

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3	We reject this provision in its entirety. We recommend that the Department re-initiate the process to engage with relevant stakeholders on the Draft Regulations, which would inevitably lead to a re-drafting of this regulation and its contents. The Department should initiate this process by first undertaking a landscaping / mapping exercise of some of the most important and	Please refer to covering letter from ProVeg South Africa and ALRSA for further detail relating to our concerns, objections and proposed changes. In summary, we have proposed this change due to concerns and objections to the process followed by the Department in drafting these Draft Meat

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	representative stakeholders within the meat analogue sector and industry. Thereafter, the Department should initiate sessions, inviting such stakeholders to engage on aspects to be covered by the proposed regulations, taking into account relevant feedback. Once a thorough, meaningful and consultative process has been followed, the Department should re-draft the Meat Analogue Regulations, considering the relevant information.	Analogue Regulations. Such concerns include but are not limited to: 1. concern and objection to the overall insufficient timeframe for commentary on documents provided by the Department; 2. concern and objection to the Department's irregular consultation process; and 3. prejudice suffered by interested stakeholders and other relevant parties.
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	followed, the Department should re-draft the Meat Analogue Regulations, considering the relevant information.	2. concern and objection to the Department's irregular consultation process; and 3. prejudice suffered by interested stakeholders and other relevant parties.
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Annexure A	We reject this provision in its entirety. We recommend that the Department re-initiate the process to engage with relevant stakeholders on the Draft Regulations, which would inevitably lead to a re-drafting of this regulation and its contents. The	Please refer to covering letter from ProVeg South Africa and ALRSA for further detail relating to our concerns, objections and proposed changes. In summary, we have proposed this change due to concerns and objections to the process

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Annexure B	We reject this provision in its entirety. We recommend that the Department re-initiate the process to engage with relevant stakeholders on the Draft Regulations, which would inevitably lead to a re-drafting of this regulation and its contents. The Department should initiate this process by first undertaking a landscaping / mapping exercise of some of the most important and representative stakeholders within the meat analogue sector and industry. Thereafter, the Department should initiate sessions, inviting such stakeholders to engage on aspects to be covered by the proposed regulations, taking into account relevant feedback.	Please refer to covering letter from ProVeg South Africa and ALRSA for further detail relating to our concerns, objections and proposed changes. In summary, we have proposed this change due to concerns and objections to the process followed by the Department in drafting these Draft Meat Analogue Regulations. Such concerns include but are not limited to: 1. concern and objection to the overall insufficient timeframe for commentary on documents provided by the Department;

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