

To: The National Department of Agriculture, South Africa (“DoA”/ “Department”)
And To: The Executive Officer: Agricultural Product Standards
And To: Dr Mbulaheni Mutengwe
By Email: MbulaheniM@nda.gov.za

**AN OPEN LETTER TO THE NATIONAL DEPARTMENT OF AGRICULTURE
REGARDING THE EXCLUSION OF CAGED EGG PRODUCTION FROM
THE PROPOSED MANAGEMENT CONTROL SYSTEMS STANDARDS
20 AUGUST 2026**

We, the undersigned 31 civil society and non-profit organisations, write this open letter to the South African National Department of Agriculture (“Department”) regarding the exclusion of caged egg production from the proposed management control systems standards (“**Proposed Methods of Production**”) made under the Regulations Relating to the Management Control System in Respect of the Sale and Export of Certain Agricultural Products (“**MCS Regulations**”) of the Agricultural Product Standards Act 119 of 1990 (“**APSA**”).

The proposed standards intend to register detailed standards for sixteen animal production-method claims, including several in relation to eggs, namely: free-range, organic, pasture-raised and grain-fed eggs (among others).

Caged egg production - the system used to produce **98.6% of eggs in South Africa** - is **entirely absent from this framework**. As over 23 million hens currently endure confinement in cruel battery cages too small to allow them to stretch their wings and perform other natural behaviours, this omission leaves the vast majority of South Africa’s laying hens, and the eggs they produce, outside the regulatory framework the MCS Regulations were introduced to provide.

**OUR KEY CONCERNS REGARDING THE OMITTED REGULATION OF
CAGED EGG PRODUCTION (SUMMARY)**

1. **A regulatory floor that does not reach the hens who need it most:** The MCS Regulations set defined standards for selected “higher-welfare” claims while leaving the dominant system - caged eggs - unregulated in comparison.
2. **A fragmented framework that undermines consumer transparency:** The standards mean that consumers could (in theory) identify free-range, organic, and other claims relating to eggs, but would have no way of identifying caged eggs, which remain the unlabelled default.
3. **A direct legal conflict on egg labelling (among others):** The Proposed Methods of Production authorise claims on packaging that existing egg marking and grading regulations under the APSA simultaneously prohibit outright.
4. **A continuation of a broader pattern of non-transparency and inequity in the egg industry around caged eggs and their harms:** This trend is illustrated through the unresolved non-disclosure of an industry-funded study into cage-free viability and conduct that has discouraged civil society scrutiny.
5. **A missed opportunity for regional alignment:** African standard-setting, including at the African Organisation for Standardisation and under the African Union’s Animal Welfare Strategy for Africa, is increasingly recognising animal

sentience and the need to improve raising standards for hens in caged-production - a trend South Africa's regulations do not yet reflect.

6. **A regulatory framework that fails to reflect the constitutional recognition of animals as sentient beings with intrinsic value**, whose interests warrant meaningful consideration in subordinate legislation, and are intertwined with human rights.

OUR REQUESTS

We respectfully call on the Department to:

1. **Register caged eggs (battery, enriched and other) as a Proposed Method of Production**, subject to public participation requirements.
2. **Require mandatory labelling of caged eggs** as such at the point of sale.
3. **Situate any disclosure requirement within a clear pathway towards the phase-out of battery cages**, not as a substitute for it.
4. **Resolve the current conflicts between existing regulations under the APSA and the MCS Regulations** insofar as they relate to eggs.
5. **Establish baseline welfare requirements for caged hens**, informed by the Five Freedoms and the more progressive Five Domains Model, as a *minimum* - not an endpoint - for further reform.
6. **Centre animal sentience and interests in regulatory and governance development.**
7. **Coordinate with national and regional standard-setting processes** to avoid fragmented or contradictory regulation across overlapping processes.

Should the Department elect not to publish caged eggs as a Proposed Method of Production under the MCS Regulations, the Department should, at a minimum:

8. **Provide an official, public explanation with the rationale for the decision and allocate an extended comment period** for public participation.

We look forward to receiving a response from the Department to work towards a more just, equitable, accountable and sustainable food system in South Africa. Please confirm receipt of this letter and address your response to: michaelatafani@animallawreform.org.

NOTE: The full letter, setting out each of these concerns and requests in further detail, is attached at Appendix I below.

**Please note that this Open Letter deals specifically with the issue of the absence of caged egg standards and does not seek to raise other objections to the standards which have been released. However, such omission should not be taken as acceptance.*

THE UNDERSIGNED [Continued on next page]





APPENDIX I: FULL LETTER

To: The National Department of Agriculture, South Africa (“DoA”/ “Department”)
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AN OPEN LETTER TO THE NATIONAL DEPARTMENT OF AGRICULTURE REGARDING THE EXCLUSION OF CAGED EGG PRODUCTION FROM THE PROPOSED MANAGEMENT CONTROL SYSTEMS STANDARDS

We, the abovementioned **31 civil society and non-profit organisations**, work across Africa, including South Africa, to advance animal protection, environmental justice, human rights, and consumer rights, respectively.

We write to the Department to express concerns regarding the Intention to Register Methods of Production as a Management Control System (“**Proposed Methods of Production**”)¹ made by the Executive Officer: Agricultural Product Standards for the Department and published for public comment in Government Gazette No. 54853, Notice No. 7597, on 19 June 2026.²

More specifically, we wish to raise concerns regarding the absence of any management control system, standard, labelling mechanism or provisions addressing caged egg production³ - the production system used to produce 98.6% of eggs in South Africa⁴ - from the Proposed Methods of Production.

The Proposed Methods of Production are published under the Regulations Relating to the Management Control System in Respect of the Sale and Export of Certain Agricultural Products (“**MCS Regulations**”)⁵ of the Agricultural Product Standards Act 119 of 1990 (“**APSA**”).

¹ The National Department of Agriculture (“DoA”), the Intention to Register Methods of Production as a Management Control System (“Proposed Methods of Production”) published in Government Gazette No. 54853, Notice No. 7597, on 19 June 2026, available at: https://www.gov.za/sites/default/files/gcis_document/202606/54853gon7597.pdf.

² Please note that this Open Letter deals specifically with the issue of the absence of caged egg standards and does not seek to raise other objections to the standards which have been released.

³ The few identified references to hens kept in cages appears in section 2.4 of Annexure B of the Proposed Methods of Production (Draft Registered “Barn Eggs” System as a Management Control System for Eggs in Respect of The Sale and Export), which provides that “[d]ual and split systems (i.e., ‘Barn eggs’ and eggs from chickens in cages) shall not be allowed on the same farm for the ‘Barn eggs’ concerned.” This provision merely prevents the simultaneous operation of barn and caged egg production on the same farm for the purposes of the “Barn eggs” certification and does not regulate, restrict or prohibit the continued use of battery cage systems more broadly. A similar reference appears at section 2.2 of the “Pasture-Raised” System (Annexure L), though the draft is not explicit about excluding cages from the scope. Annexure L also contains other references to cages which is inconsistent with the purpose of a “Pasture Raised” system claim.

⁴ South African Poultry Association (“SAPA”), Annual Report 2024 (published June 2025), available at: <https://www.sapoultry.co.za/wp-content/uploads/2025/06/SAPA-Annual-Report.pdf>. According to the report, “In 2024, 98.6% of the eggs were produced in cages”.

⁵ The Regulations Relating to the Management Control System in Respect of the Sale and Export of Certain Agricultural Products (“MCS Regulations”) of the Agricultural Product Standards Act 119 of 1990 (“APSA”), available at: <https://www.nda.gov.za/images/Branches/AgricProducHealthFoodSafety/food-safety-and-quality-assurance/management-control-systems/regulations-on-management-control-systems-nor6634-of-19-september-2025.pdf>.

The MCS Regulations themselves are set to come into operation in September 2026⁶ (12 months after the date of publication of the MCS Regulations). What is presently of concern in this letter is the proposed registration of *specific production method claims* under that framework. The Proposed Methods of Production cover sixteen distinct animal production method claims, including Barn Eggs, Canola Eggs, Free Range (Eggs and “Poultry Meat”, among others), Grain-fed Eggs, Pasture Raised (including eggs), and Organic Produced Products (including eggs), among others.⁷

Notably absent from this list, however, **is any standard governing caged egg production (for egg-laying hens)**. Through cruel confinement in cages no bigger than an A4 page, layer hens are reduced to mere commodities and unable to lay their eggs in a nest, peck and scratch in the ground (forage), perch, and dustbathe, among others.⁸ None of these highly motivated natural behaviours is possible in a battery cage. Thousands of years of domestication have not fundamentally altered these behaviours. In addition, the space provided by battery cages is so limited that hens cannot even stretch or flap their wings.⁹ Lifelong confinement in barren cages results in well-documented physical harms, including osteoporosis (due to the severe restriction of movement in cages), bone fractures, foot lesions, and muscle atrophy, as well as chronic stress, frustration, and abnormal behaviours.¹⁰ These are not marginal welfare concerns as they affect the overwhelming majority of laying hens in the country.

THE PURPOSE OF THE MCS REGULATIONS

Upon the publication of the MCS Regulations, the Department published the following explanatory statement on its website:

*“South African consumers and traders have, for the longest period, been part of the international movement in terms of producing, trading in, and purchasing agricultural products, claiming certain methods of production. These methods of production lend themselves to claims such as organic, free-range, grass-fed, naturally produced, and no-added-hormone products. **However, proper regulations that are publicly accessible and available have not been in place.***

*The newly published Management Control System (MCS) Regulations (No.R.6634 of 19 September 2025) will provide norms and standards for products sold under those claims, thereby **ensuring transparent and fair-trade practices, as well as consumer protection.***

The introduction of these MCS Regulations requires auditing to coexist with endpoint inspection for the monitoring and verification of compliance. Considering that most claims for the production methods are already audited

⁶ Ibid at Regulation 20.

⁷ The DoA, Drafts - Types of Management Control Systems published under the MCS Regulations of the APSA, available at: <https://www.nda.gov.za/index.php/publication/520-draft-legislation-for-comments>.

⁸ European Food Safety Authority (EFSA) (2005) Opinion of the Scientific Panel on Animal Health and Welfare (AHAW) on a request from the Commission related to the welfare aspects of various systems of keeping laying hens, EFSA Journal, 3(3), 197, available at: <https://efsa.onlinelibrary.wiley.com/doi/abs/10.2903/j.efsa.2005>.

⁹ Dawkins, M. S., & Hardie, S. (1989). Space needs of laying hens. British Poultry Science, 30(2), 413-416, available at: <https://www.tandfonline.com/doi/pdf/10.1080/00071668908417163>.

¹⁰ The Humane League, Everything You Should Know About Battery Cages, available at: <https://thehumaneleague.org/article/battery-cages>. Baxter, M. R. (1994). The welfare problems of laying hens in battery cages. The Veterinary Record, 134(24), 614-619, available at: <https://europepmc.org/article/med/7941260>.

*by both private certification bodies and assignees, the **costs of compliance** will be **close to non-existent, if not negligible**.*"¹¹ (Emphasis added)

We commend the Department's recognition, reflected in this statement, that consumers and traders have long operated within an international movement of production-method claims without the benefit of publicly accessible, verifiable regulation. We further commend the Department's efforts to correct that gap through the MCS Regulations.

We note the Department's acknowledgement that the introduction of the MCS Regulations will result in compliance costs that are "*close to non-existent, if not negligible*", given that "*most claims for the production methods are already audited by both private certification bodies and assignees.*"

More specifically, in terms of the Regulations Regarding the Grading, Packing and Marking of Eggs Intended for Sale in the Republic of South Africa published in terms of the APSA in Government Gazette No. 43108 of Notice R.345 ("**Regulation 345**"),¹² eggs are classified according to Grade 1, Grade 2, and Grade 3, egg sizes, and egg weights and selected production methods. A Certificate of Good Standing is issued by the Food Safety Agency (Pty) Ltd ("**FSA**"), to indicate compliance with this Regulation.¹³ Other certifications by private certification bodies include: Certified Animal Welfare Approved, Certified Grassfed, Certified non-GMO, and Certified Regenerative by A Greener World ("**AGW**"),¹⁴ and the South African Organic Sector Organisation ("**SAOSO**")'s local Standard for Organic Production and Processing.¹⁵ Against this context, it is difficult to justify the complete omission of caged egg production systems on the basis of a regulatory or compliance burden.

We recognise that the Proposed Methods of Production being registered under the MCS Regulations are, by design, a framework for regulating *voluntary* marketing claims - enabling producers who wish to sell products as "free-range" and "organic" (among others) to do so on a verified, standardised basis. We appreciate that caged egg production is not marketed to consumers as a "positive" claim, and its absence from the list of registrable claims may therefore be unsurprising to some.

However, as drafted, the Proposed Methods of Production establish detailed standards for alternative production systems while leaving caged egg production system(s) without equivalent guidance, minimum requirements, or disclosure obligations, and without any explanation for this omission.

If the purpose of the MCS Regulations is, as stated by the Department, to ensure "*transparent and fair-trade practices, as well as consumer protection*" for products sold under production-method claims, then the absence of any equivalent registered management control system or disclosure obligation for caged egg production is a gap

¹¹ The National Department of Agriculture 'Management Control Systems (MCS)', available at: <https://www.nda.gov.za/index.php/publication/623-management-control-systems-mcs>.

¹² The Regulations Regarding the Grading, Packing and Marking of Eggs Intended for Sale in the Republic of South Africa published in Government Gazette No. 43108 of Notice R.345 on 20 March 2020, available at: https://www.gov.za/sites/default/files/gcis_document/202003/43108rg11055gon345.pdf.

¹³ Food Safety Agency South Africa A New Exciting Development - The Certificate Of Good Standing And Assignee Mark, available at: <https://www.foodsafetyagency.co.za/wp-content/uploads/2024/07/Certificate-of-Good-Standing-Information-Letter.pdf>.

¹⁴ A Greener World South Africa, available at: <https://agreenerworld.org.za>.

¹⁵ South African Organic Sector Organisation, available at: <https://www.saoso.org/organic-certification/>.

the MCS Regulations should address, and is not one that can safely be left unaddressed by omission.

OUR (SELECTED) CONCERNS REGARDING THE OMITTED REGULATION OF CAGED EGG PRODUCTION

There are several issues arising from the omission of caged egg production from the Proposed Methods of Production, several of which have been identified below.¹⁶

1. A REGULATORY FLOOR THAT DOES NOT REACH THE HENS WHO NEED IT MOST

The Proposed Methods of Production will, once registered, ensure that hens kept under claimed systems (free-range, organic and others), are subject to defined standards. Hens kept in cages receive no equivalent benefit, not because their conditions raise no concerns, but because caged production is not the kind of system producers have an incentive to make a marketing claim about. The result is that the very absence of a claim becomes the reason a hen falls outside regulatory attention altogether - an outcome the MCS Regulations' consumer protection and transparency objectives should not permit.

In developing detailed management control systems for what are often considered "higher-welfare" and "niche" production claims while leaving (dominant) caged egg production entirely unaddressed, the MCS Regulations create a significant gap in South Africa's regulatory landscape - one which affects more hens and more eggs sold to consumers than all of the proposed methods of production systems applicable to egg production combined. According to the latest South African Poultry Association ("SAPA") Annual Report (published in June 2025), over 95% of egg-laying hens (over 23 million hens) are confined to live in [cruel] battery cages in South Africa.¹⁷

The Proposed Methods of Production relating to *other* eggs, by contrast, apply to a comparatively small proportion of national egg output.¹⁸ A regulatory framework intended to bring transparency to production-method claims cannot credibly be considered complete while it remains silent on the method used by the vast majority of one of the industries it purports to regulate.

2. A FRAGMENTED REGULATORY FRAMEWORK THAT UNDERMINES CONSUMER TRANSPARENCY

The stated purpose of the MCS Regulations is to ensure transparent, fair-trade practices and consumer protection. As currently framed, however, the Proposed Methods of Production create a two-tier system: consumers would (theoretically) be able to rely on registered claims to identify eggs marketed as free-range, barn, organic, grain-fed, pasture-raised and others, but would have no corresponding, regulated means of identifying whether unlabelled eggs come from hens kept in battery cages.

¹⁶ *Please note that this Open Letter deals specifically with the issue of the absence of caged egg standards and does not seek to raise other objections to the standards which have been released. However, such omission should not be taken as acceptance.

¹⁷ South African Poultry Association ("SAPA"), Annual Report 2024 (published June 2025), available at: <https://www.sapoultry.co.za/wp-content/uploads/2025/06/SAPA-Annual-Report.pdf>. According to the report, "In 2024, 98.6% of the eggs were produced in cages".

¹⁸ In terms of a survey conducted by South African Poultry Association, of the 96 farmers who answered the survey across all 9 provinces, 75% of producers confined hens to battery cages, 19% had free-range systems, and the rest of the 6% used a mixture of cage, barn and free-range system available at: <https://www.sapoultry.co.za/wp-content/uploads/2025/06/SAPA-Annual-Report.pdf>

Regulation 345 categorises eggs according to production methods, distinguishing between “barn eggs”, “cage eggs”, and “free-range eggs”.¹⁹ However, there is no legal obligation for sellers to disclose the production method on egg labels under Regulation 345 or elsewhere, and therefore such disclosure is voluntary in South Africa.²⁰ Rather than closing this information gap, the Proposed Methods of Production further entrench it in respect of the very production system that raises some of the most serious animal welfare and transparency concerns for egg-laying hens. This is particularly stark given that, unlike the claims covered by the Proposed Methods of Production, caged production requires no applicable minimum standards for additional labelling or claim verification under the proposed framework.

2.1. Lack of cohesion between Regulation 345 and the MCS Regulations

This omission is not remedied elsewhere in the existing regulatory framework. **Regulation 345**,²¹ which remains the current authority governing the grading, packaging and labelling of eggs in South Africa, imposes various restrictions on the sale of eggs, including requirements and restrictions regarding the marking of egg containers. Regulation 345 therefore serves as an important link between consumer protection and animal welfare, particularly for egg-laying hens.

Because disclosure of the production method on egg labels under Regulation 345 is voluntary, there is no legal obligation for sellers to state whether eggs are from any particular system - including cages. The Proposed Methods of Production do not correct this, as they likewise do not impose mandatory labelling of production method for caged eggs or for any of the sixteen proposed methods (although they do provide labelling rules for those claims that are registered and used).

There is, therefore, a lack of cohesion between the MCS Regulations and Regulation 345. The Proposed Methods of Production establish standards for voluntary production-method claims without clarifying how those claims interact with the existing labelling restrictions in Regulation 345, creating uncertainty for producers and regulators alike.

2.2. Inconsistencies across the Proposed Methods of Production standards

There are also material inconsistencies across the various Proposed Methods of Production standards. Different standards authorise different forms of production-method claims, often without clear justification or definition. For example, the proposed Barn Eggs standard (Annexure B) permits only the claim “*Barn Eggs*”, whereas the proposed Grainfed Eggs (Annexure G), Canola Eggs (Annexure C) and Fed a Vegetarian Diet (Annexure D) standards permit additional expressions such as “*Fed a vegetable diet*”, “*Canola Fed*”, or “*any similar claim*”, without defining what constitutes a “*similar claim*”.

These inconsistencies undermine the very transparency and consumer protection objectives the MCS Regulations are intended to serve, as they allow producers to use a

¹⁹ Ibid. Regulations 1 and 8.

²⁰ Ibid. According to Regulation 8(1)(b)(i), “*The expression “eggs” shall be indicated on the front or top panel: Provided that the following information may [emphasis added] precede or follow the expression “eggs” in letters of the same size, font and colour: (i) The specific production methods, namely “cage”, “barn” or “free range”: Provided further that the production method indicated shall at least comply with the applicable definition in regulation 1.*”

²¹ The Regulations Regarding the Grading, Packing and Marking of Eggs Intended for Sale in the Republic of South Africa published in Government Gazette No. 43108 of Notice R.345 on 20 March 2020, available at https://www.gov.za/sites/default/files/gcis_document/202003/43108rg11055gon345.pdf.

range of loosely defined or undefined expressions that may mislead consumers unfamiliar with their specific (regulatory) meaning.

2.3. Direct conflict between Regulation 345 and the Proposed Methods of Production

Moreover, these inconsistencies amount to a direct conflict between the Proposed Methods of Production and Regulation 345. Regulation 13(1)(a)(ii) of Regulation 345 prohibits, outright, the use on any egg container or outer container of “a message...which indicates the more humane treatment or rearing of poultry or which creates an impression that the eggs are safer or that poultry was fed a special diet”, expressly naming “cage free”, “furnished cage”, “safe”, “pure”, “grass fed”, “pasture fed”, “forage fed”, “canola fed”, “grain fed”, “mixed grain”, and “organic”, among the restricted wording.

Notwithstanding these explicit restrictions, the proposed Grainfed Eggs standard (Annexure G), for example, authorises producers to present eggs as “Grainfed” or “Fed a vegetable diet” on egg packaging,²² while simultaneously stating that “[p]roducts derived from the “Grainfed Eggs” system shall also be labelled in accordance to the regulations and standards for the mentioned products published in terms of the Agricultural Product Standards Act, 1990”. Similarly, the proposed Organic Production standard (Annexure K) expressly authorises products meeting its standard to be labelled as “Organic” or “Organically Produced”, with no specific limitation for the labelling of eggs.

As presently drafted, Regulation 345 therefore prohibits, on outer packaging, the very claims the MCS Regulations are simultaneously registering and authorising - a direct conflict between two sets of regulations made under the same Act, which the Department should resolve by amending Regulation 345 to except claims that are registered and compliant under the MCS Regulations, or by otherwise clarifying how the two regimes are intended to interact.

2.4. No regulatory obstacle to mandatory disclosure of caged production

We note, in this respect, that Regulation 13(1)(a)(ii) of Regulation 345 restricts only positively-framed cage-related claims - “cage free” and “furnished cage” - and does not restrict the plain, descriptive use of the word “cage” or “caged” to identify a production method. There is accordingly no existing regulatory obstacle under Regulation 345 to the mandatory disclosure of caged production sought in Request 2 of this letter.

2.5. The case for mandatory, comprehensive production-method labelling

The MCS Regulations also do not require all egg producers to disclose the production method used. This perpetuates the current lack of transparency within the egg industry and undermines consumers’ ability to make informed purchasing decisions. In contrast, the European Union has mandated the labelling of all production methods (cage, barn, free-range, or organic) since 2004 under Council Regulation 1907/90 and Commission Regulation 2295/2003; these have been replaced by Regulation (EU) No 1308/2013²³ and Commission Delegated Regulation (EU) 2023/2465.²⁴ This is consistent with an

²² Section 11 of Annexure G of the Proposed Methods of Production: “Draft Registered “Grainfed Eggs” System As A Management Control System For Eggs In Respect Of The Sale And Export”.

²³ Regulation (EU) No 1308/2013, available at: <https://eur-lex.europa.eu/eli/reg/2013/1308/oj/eng>.

²⁴ Commission Delegated Regulation (EU) 2023/2465, available at: https://eur-lex.europa.eu/eli/reg_del/2023/2465/oj/eng.

emerging regional standard, namely the AU Model Law on Food and Nutrition Security in Africa (2022),²⁵ which establishes a link between the right to food and the right to information, and requires states to regulate the labelling of food products to ensure full disclosure of essential information to consumers.

While voluntary disclosures can enhance consumer awareness, the terms may still be misleading to consumers unfamiliar with their specific definitions and regulatory requirements. Mandating egg production method labelling for all methods, including caged production, would improve transparency and foster greater accountability in egg (and other animal-sourced food) production. This would ensure consumers can make informed choices as is their right and provide better protection to consumers' right to disclosure as protected under the Consumer Protection Act 68 of 2008 (CPA).²⁶

Therefore, as matters stand, the default, *unlabelled* egg carton for sale in South Africa communicates little to nothing to a consumer wishing to make an informed choice, despite the fact that, in the vast majority of cases, that egg has been produced by a caged hen.

3. A CONTINUING PATTERN OF NON-TRANSPARENCY AND POTENTIAL RISK OF THE OMISSION BEING INTERPRETED AS ENDORSEMENT OF CAGED EGG PRODUCTION AS A NORM

This is not the first instance in which industry or regulatory bodies have failed to ensure transparency regarding caged egg production in South Africa. Animal Law Reform South Africa (“**ALRSA**”), one of the undersigned organisations, among others, has previously raised concerns regarding the continued non-disclosure of a study commissioned by SAPA from the National Agricultural Marketing Council (“**NAMC**”) in 2020, and reportedly signed off by the Department’s (former) Minister, into the viability of a transition to cage-free egg production in South Africa.²⁷ Only a brief, unreferenced executive summary of that study has been made available (and even then, only to certain parties), which contains vague and, in places, unsubstantiated claims regarding the economic feasibility of a transition away from caged production, without disclosing the underlying methodology, data, or findings necessary to interrogate them.²⁸

The full study remains inaccessible to the public more than three and a half years after it was first requested under the Promotion of Access to Information Act 2 of 2000, despite requests to the NAMC, SAPA, the Consumer Goods Council of South Africa (“**CGCSA**”), and the DoA,²⁹ by ALRSA.

Several undersigned organisations have also raised concerns regarding conduct by the CGCSA that has discouraged transparency and civil society engagement on this issue,

²⁵ African Union, Model Law on Food and Nutrition Security in Africa (adopted in 2022 at the Second Ordinary Session of the AU Specialised Technical Committee on Agriculture, Rural Development, Water, and Environment), available at: <https://pap.au.int/sites/default/files/files/2024-06/papmodellawonfoodandnutritionsecurityinafricafinal.pdf>.

²⁶ Sections 22, 13 and 41 of the South African Consumer Protection Act 68 of 2008, which respectively promote consumers' right to information appropriate to a transaction, prohibit misleading or deceptive marketing practices, and require fair value and disclosure in respect of goods and services.

²⁷ National Agricultural Marketing Council (“NAMC”) available at: <https://www.namc.co.za/wp-content/uploads/2020/11/Egg-Economic-Study-Press-Release.pdf>

²⁸ National Agricultural Marketing Council (“NAMC”) available at <https://www.sapoultry.co.za/wp-content/uploads/2023/03/Summary-of-the-NAMC-Egg-study.pdf>

²⁹ Read more about our engagement on this issue, at ALRSA: available at: <https://www.eggssouthafrica.org/industry-body-engagement/>

including threats of legal action against organisations seeking to raise it.³⁰ The omission of caged egg production from the Proposed Methods of Production risks perpetuating this pattern within a regulatory framework expressly designed to promote transparency and represents a further instance in which the egg industry's dominant production method escapes the scrutiny applied to other (typically regarded as “higher welfare”) production methods.

Left unaddressed, this omission risks being read - whether intended or not - as treating caged egg production as a default industry norm requiring no regulatory or consumer-facing scrutiny or oversight in comparison to others covered by the Proposed Methods of Production - the opposite of the transparency and consumer protection purpose the MCS Regulations are meant to serve.

Without a requirement to identify eggs produced in cage systems, caged eggs remain the default option, while newly regulated production method claims are positioned as premium products. Consequently, the least transparent system is also the most profitable one to leave unlabelled, and producers have little incentive to transition away from caged production.

4. A MISSED OPPORTUNITY TO ALIGN SOUTH AFRICA'S FRAMEWORK WITH EMERGING REGIONAL REGULATORY TRENDS

In January 2026, 35 African organisations, including a number of the undersigned organisations, wrote an open letter to the African Organisation for Standardisation (“ARSO”) and the standards authority of 44 ARSO Member Countries³¹ to object to ARSO's CD-ARS 1241:2025(E): Draft Laying Battery Cages for Chicken - Specification Standards (“ARSO Draft Battery Cage Standards”).³² The draft standards (originally) endorsed battery cages as “essential” and claimed that they “*guarantee the welfare of birds*”.

That letter called for mandatory labelling of caged eggs as such at a regional level.³³ As at August 2026, the ARSO Draft Battery Cage Standards have not yet been finalised, and engagement between civil society, ARSO, and its member states continues.

However, we understand that the following positive substantive amendments have since been decided on by ARSO (though the final standard is yet to be released): the statement that cages “*guarantee welfare*” has been deleted; cage space allocations have been revised to 750cm² per bird for group-housed birds and 1000cm² per bird for individually housed birds; and cage height has been increased to 56cm. These proposed allocations exceed the space currently permitted under SAPA's Code of Practice, which allows between 450cm² and 550cm² per bird for caged hens.³⁴

³⁰ Animal Law Reform South Africa (“ALRSA”), together with the Southern African Faith Communities' Environment Institute (“SAFCEI”) and other organisations, *An Open Letter to the Consumer Goods Council of South Africa: Eggsposing Foul Play in South Africa's Egg Industry* (27 February 2025), accessible at: www.eggssouthafrica.org.

³¹ 35 African organisations, *Letter to the African Organisation for Standardisation (and African Country Standards Authorities) Regarding Draft 'Laying Battery Cages for Chicken – Specification' Standards* (January 2026), available at: <https://www.animallawreform.org/wp-content/uploads/2026/01/Updated-Letter-Regarding-ARSO-Draft-Battery-Cage-Standards-27.01.2026.pdf>.

³² ARSO CD-ARS 1241:2025(E): Draft Laying Battery Cages for Chicken - Specification Standards (“ARSO Draft Battery Cage Standards”), available at: <https://www.tbs.go.tz/uploads/publications/en-1764232875-CD-ARS%201241%202025-Laying%20battery%20cages.pdf>.

³³ Ibid.

³⁴ SAPA Code of Practice (June 2022), available at: <https://www.sapoultry.co.za/wp-content/uploads/2022/06/2022-SAPA-COP.pdf>.

While these are incremental improvements to a system that the undersigned organisations continue to regard as inherently incompatible with hen welfare and animal flourishing, and do not substitute for the phase-out of battery cages, they nonetheless illustrate that regional standards are actively being revised upward. Various organisations have also written separately to national standards authorities in ARSO member countries, including the South African Bureau of Standards (“SABS”), in respect of the same draft standards to advocate for higher welfare standards.

This regional trajectory extends beyond the ARSO standard-setting process. The African Union (“AU”)’s Animal Welfare Strategy for Africa (“AWSA”), developed under the AU’s Inter-African Bureau for Animal Resources (“AU-IBAR”),³⁵ recognises that *“Africa, as the cradle of civilization, must play a leading role in promoting animal welfare”*, and that *“[t]aking care of the welfare of animals is not just a concept for the rich or the western nations”* but is *“deeply rooted in African societies and human practices which promote animal welfare”*. The AWSA further recognises animals as **sentient beings** in both its vision and mission, and is aligned with the AU’s broader development agendas, including Agenda 2063³⁶ and the Comprehensive Africa Agriculture Development Programme (“CAADP”).³⁷

Several undersigned organisations recognise that African food systems should reflect and promote, rather than undermine, African ideals (such as *Ubuntu* - a constitutional value) and principles articulated in the AWSA and other African policies, as well as reflect contemporary scientific understanding of animal welfare and protection. Regional standard-setting on caged egg production accordingly forms part of a wider African movement towards recognising animal sentience and improving animal welfare - one South Africa is well placed to align itself with through the present MCS Regulations process, rather than lag behind it.

5. FAILURE TO GIVE EFFECT TO THE CONSTITUTIONAL RECOGNITION OF ANIMALS AS SENTIENT BEINGS

As South African constitutional jurisprudence continues to evolve in its recognition of animals as sentient beings with intrinsic value whose interests warrant legal protection,³⁸ subordinate legislation, including regulations, norms and standards, and the like, should likewise develop in a manner that gives effect to such recognition and to constitutional values and principles. A regulatory framework that fails to reflect this constitutional trajectory risks entrenching outdated conceptions of animals as mere economic commodities, rather than giving meaningful effect to the Constitution of the Republic of South Africa, 1996 (“**Constitution**”) across all areas of law.

Treating animals solely as commodities and resources for human exploitation reflects an *“aggregative approach”* to animal protection, which prioritises economic utility while overlooking the interests of individual animals. The danger of this approach is that animals are primarily considered through the lens of human interests, such as business profitability and consumer demand. As underscored by animal protection and legal

³⁵ African Union Inter-African Bureau for Animal Resources, Animal Welfare Strategy for Africa, available at: <https://worldanimal.net/images/stories/documents/Africa/AWSA.pdf>.

³⁶ Agenda 2063: The Africa We Want, available at: <https://au.int/en/agenda2063/overview>.

³⁷ The Comprehensive Africa Agriculture Development Programme (“CAADP”), available at: <https://nepad-caadp.net/>.

³⁸ The integrative approach was applied directly by the High Court in the context of the setting of annual quotas for the export of lion bone in the 2019 case of *National Council of the Society for Prevention of Cruelty to Animals v Minister of Environmental Affairs and Others*, (86515/2017) [2019] ZAGPPHC 337; 2020 (1) SA 249 (GP) (6 August 2019), available at: <https://www.saflii.org/za/cases/ZAGPPHC/2019/337.html>.
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experts, in these instances, measures that cause suffering are often justified on the basis of profit or in terms of the benefits for humans.³⁹ There is, however, a need to centre the sentience and interests of animals, as well as their capacity for flourishing within measures and decisions that affect them. This is known as the “*integrative approach*”, which the Constitutional Court has noted “*correctly links the suffering of individual animals to conservation and illustrates the extent to which showing respect and concern for individual animals reinforces broader environmental protection efforts*”.⁴⁰

A regulatory framework that is silent on the conditions experienced by the vast majority of laying hens in the country does not reflect the necessary integrative approach and risks treating the interests of caged hens as simply outside the frame of consideration altogether.⁴¹

OUR REQUESTS

In light of the foregoing, we respectfully call on the Department to:

1. Develop and publish (battery, enriched and other) caged eggs as a Proposed Method of Production for registration under the MCS Regulations, subject to public participation and comment in the same manner as the sixteen Proposed Methods of Production referred to in this letter, and in accordance with constitutional provisions.
2. Ensure that any such registration includes a corresponding mandatory labelling requirement, so that eggs produced using caged system(s) are clearly and compulsorily labelled as such at the point of sale (for example, as “caged eggs”), rather than relying on the voluntary disclosure regime currently prescribed by Regulation 345.
3. Situate any disclosure requirement within a pathway towards phasing out battery cages. Any labelling or disclosure mechanism adopted for caged egg production should be developed as an interim transparency measure and should not delay or substitute for South Africa’s progress towards the prohibition of battery cage egg production, consistent with international and African regulatory trends.
4. Amend Regulation 345, or otherwise clarify its interaction with the MCS Regulations, so that:
 - a. claims registered and found compliant under the Proposed Methods of Production are not simultaneously prohibited as restricted wording on egg packaging; and
 - b. *all* egg production methods, including caged systems, are subject to mandatory disclosure of the production method on egg labels.
5. Establish baseline animal welfare requirements applicable to hens kept in cages, informed by the internationally recognised Five Freedoms - including freedom

³⁹ D Bilchitz (2017) “Exploring the Relationship between the Environmental Right in the South African Constitution and Protection for the Interests of Animals”, available at SSRN: <https://ssrn.com/abstract=2942112> or <http://dx.doi.org/10.2139/ssrn.2942112> pages 21- 24.

⁴⁰ National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another (CCT1/16) [2016] ZACC 46; 2017 (1) SACR 284 (CC); 2017 (4) BCLR 517 (CC) (8 December 2016), accessible at: <https://www.saflii.org/za/cases/ZACC/2016/46.html>, at para 58.

⁴¹ National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another (CCT1/16) [2016] ZACC 46, accessible at: <https://www.saflii.org/za/cases/ZACC/2016/46.html>. See also National Council of the Society for Prevention of Cruelty to Animals v Minister of Environmental Affairs and Others (86515/2017) [2019] ZAGPPHC 337, available at: <https://www.saflii.org/za/cases/ZAGPPHC/2019/337.html>.

from hunger and thirst, discomfort, pain, injury and disease, freedom to express normal behaviour, and freedom from fear and distress.⁴² These should not be regarded as the endpoint of animal welfare regulation, but as the *minimum* standard upon which progressively stronger animal protections, including an eventual transition away from caged systems, can be developed as scientific knowledge and societal expectations continue to evolve. The more recent Five Domains Model (nutrition, environment, health, behaviour, and mental experience) is increasingly recognised as a more progressive, science-based framework for assessing and promoting positive welfare states and should inform the development of any such standards.⁴³

6. Take steps to centre the sentience, intrinsic value, interests, and capacity for flourishing of animals - including layer hens - when drafting norms and standards, regulations and other governance instruments, or when considering measures that affect them.
7. Coordinate with other bodies currently engaged in standard-setting relevant to caged egg production, including the SABS and ARSO, to avoid fragmented or contradictory regulation of animal production systems given the overlapping timelines of the national and regional processes described above.

Should the Department elect not to publish caged eggs as a Proposed Method of Production under the MCS Regulations, the Department should, at a minimum:

8. Provide an official, public explanation with the rationale for the exclusion of caged egg production from the current draft and extend the public participation and comment period specifically in respect of this issue, to allow for meaningful engagement by consumers, civil society, and industry.

CONCLUDING REMARKS

The exclusion of caged egg production from the Proposed Methods of Production and the MCS Regulations reflects a continuation of a broader pattern of regulatory and industry inequity and opacity regarding the treatment of egg-laying hens in South Africa.

This process presents the Department with a valuable opportunity to correct that pattern. Extending a consumer-facing disclosure requirement and a baseline welfare floor or standard/requirement to the production method used by the vast majority of South Africa's egg production would give effect to the very transparency and consumer protection objectives the MCS Regulations are designed to serve, at negligible compliance costs given existing industry auditing and grading practices. It would also align South Africa's egg regulations with emerging regional standards and with the constitutional trajectory recognising animals as sentient beings whose interests warrant legal protection.

⁴² World Organisation for Animal Health ("WOAH"), available at: <https://www.woah.org/en/what-we-do/animal-health-and-welfare/animal-welfare/>.

⁴³ Further consider aligning regulation for animals in accordance with the recommendations proposed in Wilson A.P. and Gerrans A, A Manifesto for Transforming Animal Protection in South Africa: A Constitutional Imperative, Draft 1, Animal Law Project, 20 June 2024 <https://animallawproject.org.za/wp-content/uploads/2024/09/Animal-Law-Project-Manifesto-2024.pdf>.

We respectfully request that the Department engage with the undersigned organisations on the concerns raised in this letter, and we look forward to receiving a considered response.

Please confirm receipt of this letter and address your response to:
michaelatafani@animallawreform.org.