



the dtic

Department:
Trade, Industry and Competition
REPUBLIC OF SOUTH AFRICA



NATIONAL CONSUMER COMMISSION

a member of **the dtic** group

Protecting Consumers Through Effective Market Surveillance and Enforcement (Quality and Safety)

World Metrology Day

Presenter: Prudence Moilwa

HOD Complaints and Investigations - National Consumer Commission

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OUTLINE

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Legislative Mandate



LEGISLATIVE MANDATE

The National Consumer Commission (NCC) is established in terms of Section 85 of the Consumer Protection Act (CPA), 2008 (Act No. 68 of 2008).

The purpose of the CPA is, amongst others to:

Promote and advance the social and economic welfare of consumers in South Africa generally, and in particular:

- low-income persons or persons in low-income communities;
- those persons who live in remote, isolated or low-density areas;
- minors, seniors or other vulnerable consumers, and
- those that are illiterate, vision impaired or with limited fluency in the language the information is presented;

LEGISLATIVE MANDATE

The CPA provides for improved standards of consumer information, prohibits certain unfair marketing and business practices, promotes responsible consumer behaviour and promotes a consistent legislative and enforcement framework relating to consumer transactions and agreements.

The NCC has concurrent jurisdiction on consumer protection matters with the provincial consumer affairs offices.

The NCC's mandate is supported by mediators/ Sector Ombuds being Motor Industry Ombuds of South Africa (MIOSA) and Consumer Goods and Services Ombuds (CGSO).

VISION, MISSION AND VALUES

Vision

- A marketplace for consumer goods and services that benefits consumers and contributes to economic growth, industrialization and sustainability.

Mission

- To curb unfair business practices for a fair, safe and sustainable marketplace for consumer goods and services.

Values

- Fairness: We are committed to just treatment of all parties and unbiased decision making.
- Integrity: We are committed to honest, professional, and ethical conduct.
- Good corporate governance: We strive to always maintain good corporate governance.

Enforcement of Quality and Safety Provision

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Quality and Safety Provisions

Section 55. Consumer's rights to safe, good quality goods.

- Except to the extent contemplated in subsection (6), every consumer has a right to receive goods that—
- are reasonably suitable for the purposes for which they are generally intended;
- are of good quality, in good working order and free of any defects;

Will be useable and durable for a reasonable period of time, having regard to the use to which they would normally be put and to all the surrounding circumstances of their supply; and

- comply with any applicable **standards set under the Standards Act, 1993 (Act No. 29 of 1993), or any other public regulation.**

Quality and Safety Provisions

Section 60 –The Commission must promote, effective and efficient systems to receive notifications or reports of product failures, defects or hazards;

- Notifications on the return of any goods because of a failure, defect or hazard; personal injury, illness or damage to property caused wholly or partially as a result of a product failure, defect or hazard; and other indication of failure, defect or hazard,
- Monitor the sources of information and analyse the information received with the object of detecting or identifying any previously undetected or unrecognised potential risk to the public from the use of or exposure to those goods;
- Conduct investigations into the nature, causes, extent and degree of the risk to the public, and further carry out the necessary recalls
- Notify consumers of the nature, causes, extent and degree of the risk pertaining to those goods; and
- If the goods are unsafe, recall those goods for repair, replacement or refund.

Section 61 -Liability for damage caused by goods lies with the supplier

Regulatory Actions

The mechanisms that the NCC uses to combat unsafe and low-quality products concerns in terms of the provisions of the Consumer Protection Act No. 68 of 2008 (CPA), which is its empowering legislation. In this regard, the NCC primarily conducts market monitoring, investigations, prosecutions and product safety recalls.

Market monitoring- is conducted in terms of Section 99(C) of the CPA with focus on the following sections:

- Section 55 , Quality and Safety Provisions referring to FCDA
- Section 24– as well as other labelling provisions on trade descriptions, Including country of origin, labelling of textiles,
- Section 23 – Price Displays -CPA which provides that a retailer must not display any goods for sale without displaying to the consumer a price in relation to those goods

The NCC collaborates with other regulators including Environmental Health Practitioners(EHPs) on the technical assessment of foodstuffs

Regulatory Actions

Investigation -The NCC may also investigate allegations of the supply of unsafe products. The main section that the NCC uses in the enforcement of labelling requirements is section 55 of the CPA, that covers the Consumer's rights to safe and good quality. This section cross references public regulation. Section 55 refers compliance with any applicable standards set under the Standards Act, 1993 (Act No. 29 of 1993), or any other public regulation. Different Standard setting bodies and regulators set Standards for various products . Examples:

- The Foodstuffs, Cosmetics and Disinfectants Act, and its regulations.
- Various SANS issued by SA Bureau of Standards.
- DMPR, set standards for Petroleum and Diesel- Deviation from specifications in the Standards results in inferences / presumption of “contamination / adulteration” .

Examples of interventions (Cases)

Fruit Juice with Micotoxins/Patulin - Apple Juice concentrates were supplied to various suppliers in their value chain. The concentrates had levels of Patulin Pathogen exceeding limits set in Regulation 2 (e) of the Foodstuffs, Cosmetics and Disinfectants (FCD) Regulation 1145 of 2004. Whilst Regulation 2 (e) of the said Regulations restricts Patulin levels in Apple Juice Concentrates.

Regulatory Actions

Namib Mills / Spar- This recall occurred in the aftermath of deaths of children in Mdantsane Township, in the Buffalo City Metro. Whilst investigations were underway into the deaths, the NCC facilitated the recall of the Instant Porridge brand fingered in the deaths. To ensure that no stone was left unturned, laboratory testing of samples was done in 3 different SANAS accredited Laboratories, where the presence of no less than 31 chemicals, bacteria, pathogens and banned elements were tested for. These included organophosphates,

House of Natural Butters - Levels of Aflatoxins found in Peanut Butter this Laboratory Test intensive process was ordered by the NCC in the aftermath of the Aflatoxins issue in the country. The NCC used these provisions successfully. A total of 36 different suppliers of Peanuts / Groundnuts and peanut butter products made from contaminated peanuts or flavoured with peanut butter had to provide multiple Laboratory Test Results to prove compliance with the Limitations imposed in terms of Regulation 2 Regulation 1145 of 2004 (now repealed by Regulation 5505 of 2024).

BM Foods – HUMMUS supplier BM Foods is the manufacturer of its own brand of Hummus, which is foodstuff consumed in the main by vulnerable consumers. Shoprite had provided its network of stores or retail space to BM Foods for sale of the product to consumers. Tests that Shoprite commissioned confirmed presence of Listeria Monocytogenes in excess of permissible levels (in terms of Regulation 1145 of 2004, now FCDA Regulation 5505 of 2024).

Options and Consideration

- Addressing the ambiguity that currently exists in certain regulations e.g. the current regulation 147 of the FCDA. Draft Regulation 3337 introduces significant changes aimed at improving consumer information and food safety.
- Improved standards for products as well as Laboratory capabilities.
- More collaboration with other departments, standard setting bodies, accrediting institutions, regulators and other technical bodies to ensure improved consumer protection.
- Consumer Education and advocacy on standards and roles of various entities
- Reduced testing costs for entities done in the public interest

CONCLUSION

- The NCC appreciates the technical support it receives from NMISA and other stakeholders in the advancement of consumer protection
- We further appreciate the standing collaborations with SABS, NRCS, Government Departments etc
- We remain committed to ensuring consumer protection and we cannot do it without the support of other entities in ensuring evidence-based investigations outcomes

Thank you!

**National Consumer
Commission**

South Africa

Contact: + 27 12 065 1940

Website: www.thencc.org.za



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