the dtic
Department:
Trade, Industry and Competition
REPUBLIC OF SOUTH AFRICA

DISCUSSION DOCUMENT ON THE PROPOSED TRACK AND TRACE REGULATIONS FOR PUBLIC COMMENT

1. BACKGROUND AND PURPOSE

1.1 This discussion document, published by the Department of Trade, Industry and Competition (**the dtic**), serves to invite comment on the proposed track and trace regulations considered for publishing by the Minister, on the recommendation of the National Consumer Commission (NCC), in terms of section 120(1), read with section 24, of the Consumer Protection Act, 2008 (Act No. 68 of 2008).

1.2 The illicit trade in tobacco, alcohol, pharmaceuticals, food and consumer appliances poses serious risks to South African consumers and the national economy. According to the South African Revenue Service (SARS), illegal trade costs South Africa R100 billion a year and is one of the biggest threats to national stability and economic growth. For example, illegal trade in cigarettes cost the fiscus billions in lost excise revenue as evidenced by the estimated R18 billion lost in 2022. Additionally, counterfeit medicines as well as unregulated foodstuffs and appliances endanger public health. In Africa, counterfeit or substandard medicines reportedly cause over 100 000 deaths annually, with the United Nations estimating that trafficked or fake medical products result in half a million fatalities annually in sub-Saharan Africa.

1.3 For decades, South Africa's consumer-protection framework lacked a comprehensive track-and-trace system, relying on an antiquated excise diamond stamp for cigarettes and general labelling rules under the Consumer Protection Act, 2008 (Act No. 68 of 2008) (the CPA). As the NCC's enabling statute, the CPA contains broad powers to protect consumers from deceptive practices. Section 24 authorises the Minister to require prescribed goods to bear specified trade descriptions, including country of origin and other information. Section 60 permits the NCC to recall unsafe products, and sections 85–88 enable the establishment of a national commission with enforcement authority throughout South Africa. The proposed track-and-trace regulations build on those powers by mandating a modern, coded labelling regime.

1.4 This discussion document does not replace the legislative process instead, it provides an informal platform for engagement. Commenting on it or participating in the discussion does not prevent members of the public from commenting on or participating in consultations on the draft regulations once they are published in the Government Gazette.

1.5 Written input on the discussion document must be submitted within **35** calendar days. Submissions may be e-mailed to Ms Millicent Zwimbane at: Consumers@thedtic.gov.za or mzwimbane@thedtic.gov.za no later than 11 December 2026. The proposed regulations are attached as annexure A.

2. DISCUSSION

2.1 The key features of the proposed regulations comprise the following:

2.1.1 **Comprehensive scope**: By focusing on imported products in high-risk sectors (tobacco, alcohol, pharmaceuticals, food and appliances), the regulations target goods associated with border smuggling and consumer harm. This reflects the NCC's priorities regarding imports.

2.1.2 **Unique identifiers:** Each unit must have a machine-readable code. This code acts as a digital barcode passport, linking the item to its origin and ownership. These proposed traceability codes resemble those used by the European Union (EU), adopted under the World Health Organisation's (WHO) Framework Convention on Tobacco Control (FCTC).

2.1.3 **Real-time recording:** Producers and importers must register each code and its associated details (including origin, dates and importer) with the NCC. This creates a digital registry that enables instant verification and identification of any gaps or invalid codes.

2.1.4 **Label integrity:** In accordance with section 24, origin and other prescribed information must be plainly visible on the package. This helps prevent repackaging or relabelling fraud as recent enforcement operations (such as food safety crackdowns) revealed the life-saving importance of clear labels and traceability.

2.1.5 **Establishment of a national track-and-trace repository:** The regulations provide for the establishment of a national track-and trace-repository overseen by the NCC. The repository functions as a secure digital registry that records and maintains information associated with unique product identifiers, enabling real-time verification and regulatory monitoring.

2.1.6 **Designation of independent repository operators**: To ensure technical competence, scalability and operational resilience, the regulations authorise the NCC to designate independent repository operators to establish, operate, or maintain repository systems on its behalf. These operators perform technical and administrative functions only and act under the control and supervision of the NCC.

2.1.7 **Designation of authorised identifier issuers:** The regulations further provide for the designation of authorised identifier issuers responsible for issuing, managing or validating unique product identifiers. This model promotes uniformity, integrity, and interoperability with international traceability and export requirements. The

regulations do not delegate regulatory or enforcement authority. All regulatory decisions, namely compliance determinations, border interventions, inspections and recalls, remain exclusively with the NCC. Third parties may only be designated to provide technical infrastructure or data-processing services under the NCC's control. This is consistent with jurisprudence recognising that organs of state may rely on external expertise without surrendering decision-making authority.

2.1.8 **Enforcement and recall powers:** NCC inspectors have powers that extend from border-to-shopfloor, enabling them to inspect, seize or detain non-compliant goods. Items already sold may be recalled if missing codes, using the CPA's recall machinery. This helps prevent loopholes in the supply chain.

2.1.9 In view of the above, stakeholders are invited to make input on the proposed track and regulations as per the annexure below.

ANNEXURE A

PROPOSED TRACK AND TRACE REGULATIONS OF 2026

SCHEDULE

Definitions

1. In these Regulations any word or expression to which a meaning has been assigned in the Consumer Protection Act shall bear that meaning and, unless the context otherwise indicates-

   1.1. **"Act"** means the Consumer Protection Act No. 68 of 2008, as amended;
   1.2. **"Commission" or "NCC"** means the National Consumer Commission, a juristic person established in terms of section 85 of the Act;
   1.3. **"CTFL products"** means clothing, textiles, footwear, leather products and related personal protective equipment intended for sale or distribution in South Africa;
   1.4. **"Compulsory specification"** means any compulsory specification, technical regulation, standard, or labelling requirement administered or enforced by the National Regulator for Compulsory Specifications or any other competent authority;
   1.5. **"Counterfeit goods"** has the meaning assigned in the Counterfeit Goods Act, 1997 (Act No. 37 of 1997);
   1.6. **"Importer"** has the meaning assigned in section 1 of the Act;
   1.7. **"Identifier issuer"** means a person or entity designated by the Commission in terms of regulation 19 to generate, issue or manage unique identifiers in accordance with these Regulations;
   1.8. **"Inspector"** means a person appointed as such under section 88 of the Act;
   1.9. **"Origin"** means the country of origin determined in terms of section 24(4)(b) of the Act;
   1.10. **"Prescribed goods"** means any goods in the regulated categories (see Regulation 3);
   1.11. **"Repository"** means an electronic system for the receipt, storage and verification of traceability data;
   1.12. **"Supply chain participant**" means any manufacturer, producer, importer, exporter, distributor, wholesaler, logistics provider or retailer involved in the movement or sale of prescribed goods;
   1.13. **"Trade description"** has the meaning assigned in terms of the Consumer Protection Act;
   1.14. **"Unique identifier" or traceability code"** means a machine-readable code (such as a GS1 Data Matrix or bar code) containing a serial number, lot or batch number, and a product identifier that unambiguously identifies a product unit and its source; and
   1.15. **"Unique identifier" or "traceability code"** means a secure, machine-readable and tamper-evident code, including but not limited to a GS1 Data Matrix, QR code or barcode, containing a serial number, batch or lot number, and product identifier that uniquely identifies a prescribed good and enables the tracing of such good throughout the supply chain.

Purpose of the Regulations

2. The purpose of these Regulations is to –
   (a) To prescribe category of goods that requires trade description in terms of section 24 (4);
   (b) To prescribe traceability mechanism as one of the trade descriptions in terms of the 24 (5) of the CPA;

(c) give effect to sections 3, 24, 60, 85 to 88, 99 and 120 of the Act;
(d) combat counterfeit and illicit goods entering or circulating within the Republic;
(e) support local manufacturing and fair competition through enhanced traceability and product authentication mechanisms;
(f) facilitate cooperation between the Commission and other organs of state responsible for facilitation of movement of goods, customs control, standards enforcement, public health and criminal investigations;
(g) prevent the importation and circulation of illicit, unsafe or non-compliant goods;
(h) enable the tracing of prescribed goods throughout the supply chain; and
(i) enhance consumer protection, market surveillance and border enforcement.

Prescribed Goods (Categories)

3. For purposes of section 24(4)(a) of the Act, the Minister hereby prescribes the following categories of goods as goods required to bear prescribed trade descriptions and traceability identifiers:

3.1. Food and foodstuffs intended for human consumption;

3.2. Clothing, textiles, footwear and leather products, including imported apparel, safety footwear, leather goods, textile products, fashion accessories and personal protective equipment;
3.3. Cannabis and Cannabis products;
3.4. Tobacco products, including cigarettes, cigars, roll-your-own tobacco and related products;
3.5. E-cigarettes, vaping devices including vaping kits;
3.6. Alcoholic beverages;
3.7. Pharmaceuticals and medical products, including prescription and over-the-counter medicines;
3.8. Electrical and electronic appliances; and
3.9. Any additional category of goods designated by the Minister by notice in the Government Gazette.

4. These categories are targeted due to their high risk of illicit trade and economic impact.

Traceability Coding

5. The importer, manufacturer, producer or distributor of any prescribed good, including CTFL products, must affix or ensure that a unique traceability code is affixed to each individual unit (e.g., pack, container, device) before it enters the South African market.

6. This unique code shall be encoded in an internationally accredited format (such as a GS1 DataMatrix or 2D barcode) and shall link the product to a database record indicating the product's manufacturer, importer, lot/batch number, serial number, and origin. For example, each cigarette pack must carry a secure unique identifier as required by international protocols.

7. The traceability code must be linked to—
(a) the product description;
(b) trade descriptions;
(c) manufacturer or supplier details;

(d) batch or production information; and
(e) applicable compulsory specifications or standards as prescribed by public regulation and Consumer Protection Act, 2008.

8. The traceability code for CTFL products may be incorporated into sewn-in labels, swing tags, packaging, RFID tags, QR codes, or any other durable format.

9. All traceability codes must be durable, legible, secure and tamper-evident for the reasonably expected lifespan of the prescribed goods and must comply with any technical standards prescribed by relevant regulatory bodies.

Labelling of origin and information

10. In terms of section 24(5) of the Act, every unit of prescribed goods must clearly and conspicuously display its country of origin and the manufacturer and any prescribed trade description in a manner that is legible, durable and accessible to consumers."

11. In addition, the label or packaging must include all other required trade description information (as defined in section 1 of the Act) such as manufacturer name, importer name, and batch/expiry date as applicable. The unique traceability code must also be linked to the specified trade description.

12. No person may—
(a) remove, alter, obscure or tamper with a traceability code affixed to prescribed goods; (b) apply false origin information or misleading product descriptions;
(c) import or distribute counterfeit goods bearing fraudulent or duplicated traceability identifiers; and
(d) knowingly distribute products that do not comply with applicable compulsory specifications or labelling requirements. Section 24 (3) of the CPA.

13. These labelling requirements ensure that consumers and regulators can verify provenance before supply, non-compliant goods with misleading or missing origin labels.

Record-keeping and data submission

14. Every person who manufactures, imports, or packages a prescribed good must maintain detailed records of all traceability codes issued.

15. Within seven days of importation (production or packaging), the importer/producer/distributor must submit the following information to the Commission's designated database or registry: product identifier, batch/lot number, unique code(s), importer name, manufacturer name, date of entry into South Africa, and intended distribution network.

16. These records must be kept for a minimum of 5 (five) years and made available on request to the Commission.

Establishment of national track and trace repositories

17. The Commission may establish, designate, approve or recognise one or more electronic repositories, including repositories established or approved by other state institutions for purposes of these Regulations.

18. The Commission shall have unrestricted access to all traceability data stored in any designated or recognised repository.

19. The Commission may grant controlled access to repository data to –
    (a) the South African Revenue Service;
    (b) the Border Management Authority;
    (c) the South African Police Service;
    (d) the Department of Health;
    (e) the South African Health Products Regulatory Authority;
    (f) the National Regulator for Compulsory Specifications; and
    (g) any other organ of state with a lawful mandate, for purposes of border control, market surveillance, criminal investigation or public safety.

Designation or recognition of independent repository operators

20. The Commission may designate or recognise independent repository operators subject to applicable law.

21. A designated or recognised repository operator –
    (a) must be independent and free from conflicts of interest;
    (b) may not exercise enforcement or regulatory powers; and
    (c) must operate strictly in accordance with a written designation agreement.

Functions of repository operators

22. A repository operator may –
    (a) receive and store traceability data;
    (b) enable verification of unique identifiers;
    (c) generate system alerts and analytical reports; and
    (d) provide access to authorised organs of state.

Designation of identifier issuers

23. The Commission may designate or recognise one or more identifier issuers.

Obligations of identifier issuers

24. An identifier must –
    (a) apply internationally recognised coding standards;
    (b) ensure uniqueness and security of identifiers;
    (c) maintain issuance records; and
    (d) transmit identifier data to the repository.

Applicable fees

25. The Minister may prescribe applicable fees payable by producers or importers in respect of –
    (a) the registration of products, identifiers or codes under these Regulations;
    (b) access to, or use of, the track and trace repository; and
    (c) compliance monitoring and enforcement activities reasonably required to give effect to these Regulations.

26. Applicable fees prescribed in terms of Regulation 25 must –
    (a) be reasonable and proportionate;
    (b) be applied in a transparent and non-discriminatory manner; and
    (c) be rationally connected to the administration and enforcement of these Regulations.

27. In prescribing applicable fees, the Minister must have regard to the nature and extent of the regulatory activities to which such fees relate.

Exemptions

28. The Minister may, on application or on own initiative, and at the recommendation of the Commission exempt a category of suppliers or importers from the payment of all or part of any fees prescribed in terms of Regulation 25.

29. An exemption granted in terms of these Regulations –
    (a) must be granted subject to such reasonable conditions as the Commission may determine;
    (b) may be limited in duration; and
    (c) may be withdrawn by the Commission on reasonable grounds and after affording the affected party an opportunity to make representations.

30. The Minister may, on application or on own initiative, and at the recommendation of the Commission exempt a category of suppliers or importers from the application of these Regulations.

Inspection, enforcement and sanctions

31. The Commission is empowered to enforce these Regulations under the Act.

32. Inspectors may enter any premises where prescribed goods are manufactured, imported, stored or sold. They may inspect goods, verify coding and labelling, and seize or detain any item not bearing the required traceability code or label.

33. Goods arriving at the border without the prescribed code or label may be held or returned, since they are non-compliant with the Act's trade description requirements.

34. Any person who contravenes these Regulations is guilty of an offence under the Act and may be guilty of as offence in terms of section 110 of the Act.

35. The Commission may exercise its recall powers under section 60 of the Act if goods supplied in the market do not comply with these Regulations.

General

36. The Commission may issue guidelines to give effect to these Regulations.

Short Title

37. These proposed Regulations shall be called Track and Trace Regulations of 2026.