Supply chain accountability and the mislabelling of food products in South Africa: A case study on the Karoo lamb industry

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The mislabelling of food products has made international headlines in recent months following a number of high profile incidents such as the EU horsemeat scare. The issue is also present in South Africa as illustrated by the case of Halaal products which were found to contain pork and more recently the traces of donkey DNA found in processed meat products. These incidents raise important questions from a food safety and consumer protection perspective, in particular regarding traceability and who can be held accountable for ensuring that the food we eat is indeed what it pretends to be. In line with international trends, the South African legal position regarding product liability was significantly amended through the introduction of strict liability under section 61 of the Consumer Protection Act 68 of 2010. The food labelling regulatory framework was also significantly overhauled in 2010 with publication of R146 under the Foodstuffs, Cosmetics and Disinfectants Act 54 of 1972. Both the introduction of strict product liability and the tightening of the food labelling regulatory framework were driven by greater concern for consumer protection. Following on the recent advances in South African consumer and food laws and the persistent incidence of mislabelling, this paper seeks to analyse supply chain accountability for the mislabelling of food products in South Africa.

The analysis takes a unique approach to the issue of accountability by focussing on origin labelling through a case study of the Karoo Lamb industry that has recently moved towards the introduction of a certification scheme for ensuring the veracity of claims for meat originating from the Karoo. The creation of the Karoo Meat of Origin scheme is effectively the first protected geographical indication in South Africa. While the need to ensure the veracity of origin based claims on food products has enjoyed growing attention at international level in fora such as the WTO TRIPS negotiations, South Africa does not provide a dedicated legal framework for the protection of this intellectual property right. Instead, South African TRIPS compliancy is based on a combination of trade mark, consumer and food law provisions. The multidimensional regulatory framework within which origin based food supply chains operate thus provides a useful/rich case study for exploring accountability for the mislabelling of food products.

The paper proposes a legal and supply chain analysis of accountability in origin based food supply chains. By using a supply chain approach to map the certification process of Karoo meat, the discussion is able to analyse the legal spheres within which the various supply chain actors operate and how accountability is distributed under the different applicable legal regimes, including intellectual property, food and consumer laws. Section one of the paper contextualises the discussion. The discussion in Section two explores the background to and process of establishing the Karoo Meat of Origin Scheme. In Section three of the paper a supply chain analysis is provided to map the various actors involved in the certification process as well as more broadly in controlling use
of the name Karoo lamb. In Section four, the supply chain mapping is used to link the various stages of certification and control with the different legal regimes to establish accountability.

The paper concludes with insights into the role public and private actors play in ensuring the truthful labelling of food products in South Africa. The case study of the Karoo Lamb industry illustrates effectively how producer groups can use existing legislation to hold all roles players accountable and to ensure that they product the integrity of the origin based name.