IN THE NATIONAL CONSUMER TRIBUNAL
HELD IN CENTURION

Case number: **NCT/449754/2026/73(2)(b)**

In the matter between:

NATIONAL CONSUMER COMMISSION APPLICANT

And

LIEN SHIN TRADING (PTY) LTD
CIPC NO B2008167202 RESPONDENT

Coram:

Dr MC Peenze - Presiding Tribunal member
Adv C Sassman - Tribunal member
Mr S Mbhele - Tribunal member

Date of hearing: 29 July 2026
Date of order: 31 July 2026

JUDGMENT AND REASONS

THE PARTIES

1. The applicant is the National Consumer Commission (the applicant), a juristic person established in terms of section 85(1) of the Consumer Protection Act 68 of 2008 (CPA). The applicant is responsible for enforcing the CPA by monitoring the consumer market to prevent or detect prohibited conduct and offences, and to prosecute them.

2. At the hearing, the applicant was represented by Takalani Kutumela, its Legal Advisor.

3. The respondent is Lien Shin Trading (Pty) Ltd (the respondent), a supplier as defined in section 1 of the CPA.

4. The respondent did not oppose this application and was not represented at the hearing.

TERMINOLOGY

5. Unless otherwise stated, a reference to a section or regulation in this judgment refers to a section of the CPA or the CPA regulations.

6. A reference to a rule refers to the Rules of the Tribunal[1].

TYPE OF APPLICATION

7. This is an unopposed application in terms of section 73(2)(b) in which the applicant alleges that the respondent has contravened certain provisions of the CPA and, in doing so, has engaged in prohibited conduct.

PROCEEDING ON A DEFAULT BASIS

8. On 14 April 2026, the applicant served a copy of the application on the respondent by hand.[2]

9. On 6 May 2026, the applicant filed the application with the Tribunal.

10. In terms of rule 13(2), the respondent had 15 business days from the date of receipt of the application to serve an answering affidavit and file the same with the Registrar. However, it failed to do so.

11. The applicant did not file an application for a default order in terms of rule 25(2).

[1] Published under GN 789 in GG 30225 on 28 August 2007 as amended by GN 428 in GG 34405 on 29 June 2011, GN R203 in GG 38557 on 13 March 2015 and GN 157 in GG 39663 on 4 February 2016.
[2] See page 4 of the Tribunal record.

12. Due to the pleadings being closed, the Registrar issued a notice of set down to all the parties on 14 July 2026, setting the matter down for a hearing on 29 July 2026.

BACKGROUND AND FACTS

13. The applicant regularly conducts market monitoring exercises that involve inspecting businesses in various areas of the Republic of South Africa. The purpose is to identify any supplier conduct that violates the CPA's provisions.

14. On 3 November 2025, the applicant initiated a complaint under section 71(2), read with CPA regulation 35(2), followed by an inspection of the respondent's premises. The inspection was conducted in the presence of Mr Russel Wans (Mr Wans), who stated that he was the store manager. The inspectors identified themselves and explained the purpose of the visit: to assess compliance with the provisions of the CPA and other relevant regulatory instruments governing the sale of goods, including food safety and labelling requirements.

15. During the inspection, the inspectors examined the goods available for sale and completed an Inventory Form. The form recorded the state and condition of the goods and their compliance with applicable standards under the CPA and Regulations 12 and 7(a) of the Foodstuffs, Cosmetics and Disinfectants Act Regulations of 2010: Labelling and advertising of foodstuffs (Regulations 146).[3] According to the Inventory Form dated 3 November 2025, various non-compliances were recorded, giving rise to reasonable suspicion that the respondent was conducting its business in contravention of the CPA.

16. The applicant directed various investigators, including Mr Sthembiso Khuleni, who drafted the investigation report,[4] to investigate further non-compliance with the CPA. A second visit to the respondent's premises was conducted on 2 December 2025, again in the presence of Mr Wans. The second inspection confirmed the applicant's suspicions that the respondent was contravening certain provisions of the CPA.

[3] Government Notice No. R. 146 of 1 March 2010.
[4] See page 36 of the Tribunal record.

17. According to the applicant, the respondent continued to display and sell food items with obscure trade descriptions, no date markings, and food that had passed its best-before date, despite prior notice. The applicant alleges that the respondent has thereby contravened Regulation 146 and sections 24(3), 26, 40(1)(a) and (b), 40(2), 55(2)(b) and 55(2)(d).

18. The applicant seeks several orders against the respondent, including an order declaring the respondent's contraventions as prohibited conduct, interdictory relief, an administrative fine of R1 000 000.00 to be imposed on the respondent, and any other appropriate order contemplated in section 4(2)(b)(ii).

APPLICABLE LEGISLATION

19. Section 24(3) directs that a retailer of goods must:

    (a) not offer to supply, display or supply any particular goods if the retailer knows, reasonably could determine or has reason to suspect that—
        (i) a trade description applied to those goods is likely to mislead the consumer as to any matter implied or expressed in that trade description; or
        (ii) a trade description or trade mark applied to those goods has been altered as contemplated in section 24(2)(b); and
    (b) with respect to any goods within the retailer's control, take reasonable steps to prevent any other person from doing anything contemplated in paragraph (a) or section 24(2)(b).

20. Section 26(2) compels a supplier of goods or services to provide a written record of each transaction to the consumer to whom any goods or services are supplied. As per section 26(3) of the CPA, this record must include at least the following information:

    (a) The supplier's full name, or registered business name, and VAT registration number, if any;
    (b) the address of the premises at which, or from which, the goods or services were supplied;
    (c) the date on which the transaction occurred;

(d) a name or description of any goods or services supplied or to be supplied;
(e) the unit price of any particular goods or services supplied or to be supplied;
(f) the quantity of any particular goods or services supplied or to be supplied;
(g) the total price of the transaction, before any applicable taxes;
(h) the amount of any applicable taxes; and
(i) the total price of the transaction, including any applicable taxes.

21. In South Africa, the labelling and advertising of food are governed by the Foodstuffs, Cosmetics and Disinfectants Act 54 of 1972 and managed via specific public regulations relating to the labelling and advertising of foodstuffs (Regulations 146).[5] These regulations protect consumers by enforcing accurate product descriptions, clear ingredient lists, and honest nutritional claims.

(i) Regulation 12 of the Regulations 146 prohibits a supplier from selling any goods without date markings clearly indicated.

(ii) Regulation 7(a) of the Regulations 146 places a duty on a supplier to ensure that trade descriptions of foodstuffs sold to consumers are in one of the official languages of the Republic of South Africa, but preferably English.

22. Section 40(1)(a) and (b) states that a supplier must not use physical force against a consumer, coercion, undue influence, pressure, duress or harassment, unfair tactics or any other similar conduct, in connection with any
(a) marketing of any goods or services; or
(b) supply of goods or services to a consumer.

23. Section 40(2) states that it is unconscionable for a supplier knowingly to take advantage of the fact that a consumer was substantially unable to protect the consumer's own interests because of physical or mental disability, illiteracy,

[5] Government Notice No. R. 146 of 1 March 2010.

ignorance, inability to understand the language of an agreement, or any other similar factor.

24. Consumers' rights to safe and good quality foods are regulated in section 55(2).

24.1 Section 55(2)(b) states that every consumer has a right to receive goods that are of good quality, in good working order and free of any defects.

24.2 Section 55(2)(d) states that every consumer has a right to receive goods that comply with any applicable standards set under the Standards Act, 1993 (Act No. 29 of 1993), or any other public regulation.

THE APPLICANT'S SUBMISSIONS

25. The applicant submits that the respondent sold goods either without date markings or with trade descriptions in a foreign language rather than in clear, simple language.[6] According to the applicant, this conduct is likely to mislead a consumer about the product's content, thereby constituting a contravention of section 24(3).

26. During the inspections on both occasions when inspectors visited the respondent's place of business, the respondent is alleged to have failed to furnish consumers with sales records upon purchase of the goods sold. Also, the daily transaction record provided by the respondent during the inspections did not detail individual sales.[7] As the respondent could not provide the inspectors with any transaction records other than the daily sales record summary, the applicant submits that the respondent failed to provide consumers with a written transaction record as required by section 26(2) and (3).

27. The applicant asserts that the respondent conducted itself in an unconscionable manner and thereby contravened sections 40(1)(a) and (b), section 40(2) and sections 55(2)(b) and (d), read with the Regulations 146. According to the applicant, the respondent engaged in unfair tactics by using a foreign language

[6] See pages 37 – 45 of the Tribunal record.
[7] See page 46 of the Tribunal record.

on its products. This exploited consumers' inability to protect their own rights under the CPA, a position further exacerbated by the respondent's non-disclosure of date markings. In addition, various products on the displayed shelves had passed their best-before dates by a year. According to the applicant, the respondent conducts itself in this manner knowingly and intentionally. During the applicant's second visit and inspection, the applicant anticipated that the respondent would have addressed its non-compliant behaviour identified during the first inspection. However, the respondent did not rectify its conduct.

28. Throughout the history of this matter, the respondent showed no regard for consumer rights as enshrined in the CPA despite having been afforded an opportunity to rectify the non-compliance.

29. The applicant submits that the respondent has contravened the above provisions of the CPA and that the orders as prayed for in Form: TI. 73 (2)(b) be granted.

CONSIDERATION OF PROHIBITED CONDUCT

30. Section 73(2)(b) states that if the applicant believes that a person has engaged in prohibited conduct, the applicant may refer the matter to the Tribunal for adjudication.

31. The Tribunal considered the applicant's written submissions regarding the basis upon which it formulated a reasonable suspicion that the respondent was engaging in prohibited conduct. The Tribunal is satisfied that the applicant has provided sufficient argument and evidence to establish that there was reasonable suspicion to investigate the respondent's conduct fully.

32. The Tribunal is seized only with the applicant's documentary evidence and oral arguments. In terms of rule 13(5), the Tribunal deems the facts alleged by the applicant to be admitted by the respondent. The respondent, by failing to file an answering affidavit or be represented at the hearing, has lost the opportunity to put forward a proper defence against the allegations levelled against it and has placed itself in the hands of the Tribunal.

33. On the evidence before the Tribunal, the respondent placed products on display at its premises that contained trade descriptions not written in clear, simple language, but written in a foreign language, and various items did not contain date markings.

34. Further, because various products on display had passed their best-before dates, the Tribunal is persuaded that, in the ordinary course of its business, the respondent was selling food items without clearly marked dates and without ensuring that the trade descriptions were in one of the official languages of the Republic of South Africa. Given that obscure trade descriptions and the absence of date markings could mislead consumers about the manufacturer and ingredients of the products, the Tribunal is persuaded that the respondent has contravened section 24(3) and Regulations 12 and 7 of Regulations 146. Further, because section 55(2)(d) entitles a consumer to receive goods that comply with any applicable standards set under any public regulation, such as Regulations 146, the respondent's failure to adhere to Regulations 146 also constitutes a contravention of section 55(2)(d). These contraventions amount to prohibited conduct.

35. The Tribunal is further persuaded that the respondent, by displaying only a foreign language on products and failing to remove products that had passed their best-before date, deployed unfair tactics to market[8] and supply[9] their goods. Consumers unable to understand the foreign language would be unable to protect their own interests by understanding the ingredients and manufacturing processes reflected on products in such instances. In this matter, the respondent marketed the goods in a foreign language by displaying them on the shop shelves, and it is undisputed that the respondent sold them to South African consumers who are not competent in that language. Accordingly, the Tribunal finds that the respondent transgressed section 40(1)(a) and (b) and 40(2), which transgressions constitute prohibited conduct.

[8] Under section 1, ''market'', when used as a verb, means to promote or supply any goods or services.
[9] Under section 1, ''supply'', when used as a verb in relation to goods, includes sell, rent, exchange, and hire in the ordinary course of business for consideration.

36. The applicant alleges that the respondent failed to display the correct details in its sales records and, in doing so, has contravened section 26(2). Section 26(2) requires a supplier of goods or services to provide a written record of each transaction to the consumer to whom any goods or services are supplied. At the hearing, the applicant conceded that it could not refer the panel to a particular transaction in which the respondent failed to issue a sales record. The applicant was also unable to refer the panel to a sales record that did not contain all the required information prescribed in section 26(3)(a)-(i). Therefore, the applicant has failed to prove that the respondent has contravened section 26(2).

37. In respect of the alleged contravention of section 55(2)(b), the Tribunal is not persuaded that the products sold are of poor quality or defective. The applicant did not provide any evidence of the actual state of the products sold and, accordingly, the Tribunal dismisses the allegation of a contravention of section 55(2)(b).

RELIEF

38. The applicant requested the Tribunal to interdict the respondent from continuing its display of prohibited conduct. The applicant has failed to lay any basis for an interdict. In any event, the prayer for an interdict is misguided. In Shoprite Investment Limited v The National Credit Regulator,[10] the full bench of the High Court of South Africa (Gauteng Division, Pretoria) supported a concession that a restraining order would serve no purpose, as the NCA already proscribed the granting of reckless credit. Similarly, in the present matter, an interdict will serve no purpose, as the CPA already prohibits the conduct the applicant seeks to interdict.

39. The applicant also requested the Tribunal to direct payment of an administrative penalty in the amount of R1 000 000,00 (one million rand).

40. The Tribunal is satisfied that the nature of the respondent's contraventions is the type of conduct that the CPA seeks to prohibit and justifies the Tribunal's imposition of an administrative fine on the respondent. The rights afforded to

[10] [2019] ZAGPPHC 956 (18 December 2019) at para 48.

consumers under the CPA exist to protect them, and any infringement of these rights can have serious consequences. The Tribunal must send a clear message to suppliers that consumers' rights cannot be violated for mere profit, and that if they do so, they will be penalised.

41. Section 112(3) outlines the factors the Tribunal must consider when determining an appropriate fine. These are listed and discussed under separate subheadings below.

The nature, duration, gravity, and extent of the contravention

The evidence shows that the respondent disregarded the various provisions of the CPA and prejudiced consumers in the ordinary course of its business. As such, the contraventions committed by the respondent are of a serious nature.

Any loss or damage suffered as a result of the contravention

The respondent's reflection of trade descriptions only in a foreign language without date markings deprives consumers of a material, fully informed, and rational transactional decision.

The behaviour of the respondent

The respondent has shown blatant disregard for the CPA by failing to rectify their conduct and instead opting to remain in contravention.

The market circumstances in which the contravention took place

The respondent's conduct illustrates that the market in which the contraventions occurred is one in which consumers are often not fully aware of their rights and expect suppliers to comply with the legislative requirements imposed on them.

The level of profit derived from the contravention

There exists a discernible benefit, pecuniary or otherwise, that the respondent may justifiably derive from their contravention of the applicable legislative provisions.

The degree to which the respondent has co-operated with the applicant and the Tribunal

Whilst the respondent demonstrated compliance by engaging with the applicant's investigators, such co-operation has been purely perfunctory and

devoid of any genuine effort to resolve the matter or remedy the contraventions identified.

Whether the respondent has previously been found in contravention of the CPA
Apart from the two inspections conducted as per the Tribunal record, there is no evidence that any prior investigations or enforcement action were instituted against the respondent.

42. Regarding the abovementioned factors, the factual evidence, and the conduct displayed, it is in the interest of justice for an administrative fine to be imposed on the respondent. The purpose of the administrative fine is, in the circumstances of this application, a punitive measure that is warranted. Regarding the quantum of the administrative fine, section 112(2) provides that an administrative fine imposed may not exceed the greater of 10% of the respondent's annual turnover during the preceding financial year or R1 000 000.00 (one million rand), whichever is greater.

43. The applicant has not provided any confirmation of the respondent's annual turnover during the preceding financial year. However, the Tribunal finds that a fine of R100 000.00 (one hundred thousand rand) is appropriate in this instance and will serve as a deterrent to similar conduct in the future.

ORDER

44. Accordingly, the Tribunal makes the following order:

44.1 The respondent contravened sections 24(3), 40(1)(a) & (b), 40(2), and 55(2)(d) of the Consumer Protection Act 68 of 2008, read with Regulations 12 and 7(a) of the Foodstuffs, Cosmetics and Disinfectants Act Regulations of 2010: Labelling and advertising of foodstuffs.

44.2 The above contraventions are declared prohibited conduct;

44.3 The respondent must, within sixty business days of this judgment being issued, pay an administrative fine of R100 000.00 (one hundred thousand rand) into the National Revenue Fund referred to in section 213 of the

Constitution[11] using the following bank account details and reference number:

Bank: Nedbank Limited
Account holder: Department of Trade, Industry and Competition
Account type: Current account
Account number: 126 884 7941
Branch name: Telecoms and Fiscal
Branch code: 198765
Reference: NCT/449754/2026/73(2)(b) and the name of the person or business making the payment; and

46.4 There is no cost order.

[signed]

Dr MC Peenze
Presiding Tribunal member

Tribunal members, Adv Craig Sassman and Mr S Mbhele concur.

Authorised for issue by The National Consumer Tribunal

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[11] Constitution of the Republic of South Africa, Act 108 of 1996.