

Groceries Code Adjudicator

Record of GCA Survey of the groceries supply chain- next steps discussion 14th July 2014 10:30 – 12:30	
Location	Purpose of meeting
GCA, Victoria House, Southampton Row, London	Collective discussion with Code Compliance Officers, YouGov and the CMA on next steps on the survey
Attendees	
<p style="text-align: center;">GCA</p> <p>Christine Tacon (CT), Groceries Code Adjudicator</p> <p>Helen Gordon-Lee (HGL), Chief Legal Advisor</p> <p>Angela Latta (AL), Head of Policy and Operations</p> <p>Jenny Hendricks (JH), Office Manager</p>	<p>Retailers</p> <ul style="list-style-type: none"> • Co-operative Group Limited – Phil Willsmer (CCO), Bridget Groarke • Iceland Foods Limited – Jayne Burrell (CCO) • Marks & Spencer plc – Max Gillibrand (CCO), Robert Steadman • Wm Morrison Supermarkets plc – Steven Butts (CCO) • J Sainsbury plc – Susannah Hall (CCO), Dafydd Pugh • Waitrose Limited – Damen Bennion <p>YouGov</p> <ul style="list-style-type: none"> • Gavin Ellison (GE) <p>CMA</p> <ul style="list-style-type: none"> • Bob MacDowall (BM) – Market Remedies Team • Natalie Lam (NL) – Market Remedies Team

1 Introductions

CT thanked everyone for taking the time to attend the meeting which was arranged at short notice given correspondence and discussions about the survey just before the conference.

2 GCA approach

Having reflected on the quarterly meetings with CCOs, the conference and the survey handling, CT shared her views with the group. CT began by clarifying the GCA's view of the collaborative approach of working with retailers.

Working with a collaborative approach means that the GCA will be able to find better and quicker ways to address issues raised by suppliers without the need for an investigation. The Adjudicator has certain expectations of this approach, such as the understanding of the position and remit as a regulator to monitor, enforce and ensure compliance with the Code. This can take a number of different forms, but the way that has worked up to this point has been the Adjudicator sharing the issues that have been brought to her attention and looking into whether the practices exist with each retailer. Retailers have responded well in looking into such issues, especially forensic auditing, and we hope will continue to look into the remaining 4 issues from CT's Top 5. This has worked well, however, as the GCA moves into its second year it appeared that further clarification of the approach was needed. The GCA approach is one of collaboration rather than consultation, and input and feedback will continue to be sought from retailers, suppliers and trade bodies. This will enable a full understanding of the point of view of each group, and of individual members, and enable a balanced approach. The view had however been expressed by the BRC and some individual retailers that retailers felt that they should have been part of a consultation on the survey questions. CT noted that the seeking of early views on the survey questionnaire was not a consultation exercise, nor should it have been.

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Turning to the GCA's quarterly meetings with CCOs; some CCOs had provided feedback during these meetings that without being given more information and evidence of a particular practice occurring specifically in their business, retailers felt unable effectively to look into issues raised. It was not clear whether some were, in fact, unwilling to do so. CT emphasised the importance of retailers proactively managing their own risks in relation to the Code and practices which may be governed by it. The GCA could tell them what it was hearing about but this was by no means to be taken as the totality of practice in the sector. Nor should it be assumed that just because a particular retailer is not cited in connection with a particular practice, that it didn't follow the same or a sufficiently similar practice to merit further consideration. Retailers are provided with as much information as is possible to enable them to understand the issue, and the onus is then on each retailer to look into whether and to what extent the practice, or something similar, occurs within the business. CT also noted that retailers had requested that they be notified when their own organisations have been mentioned specifically in connection with issues raised with the GCA. CT confirmed that several of the retailers had already had direct contact on such issues and that she would continue to do so as long as anonymity of those providing the GCA with information could continue to be preserved.

The GCA team are of course happy to discuss these issues further, if it would be helpful.

CT stated that in many cases an investigation would initially have to include retailers about whom there was no specific information in relation to the practice being investigated, in order to determine whether they should remain in scope.

CT further clarified that information requested by the GCA, for example on the Top 5 issues, is required, not optional; in order to try to resolve the issues which are challenging suppliers, and to demonstrate how the GCA is monitoring and enforcing Code compliance and discharging its duties as regulator.

CT asked retailers to ensure their CCOs and press offices are joined up to ensure that there are consistent messages relating to GCA activities. CCOs were asked to provide press officer contact details to Sheree Dodd for liaison if they want to have a direct contact with the GCA.

2 The next phase for the GCA

CT informed the group that having met some of the retailers' CEOs, she is convinced of the value of building relationships at Board level, as well as the day-to-day CCO route into each retailer. CT asked retailers for contact details of each of their CEOs, to standardise this approach. The route through CCOs will not be circumvented, and issues will continue to be raised with CCOs in advance of any other contact. CT will write to all CEOs to explain the GCA approach shortly.

Having reflected on the quarterly meetings CT considered that CCOs needed a greater opportunity to feed back progress on issues raised at previous meetings and in interim correspondence. To this end, CCOs were asked to come to the September and subsequent quarterly meetings prepared to give the GCA a short written progress report on their activities undertaken to ensure Code compliance.

3 Retailer survey report

CT began by announcing that it was her intention to publish the full survey results, i.e. the slide set initially circulated in advance of the presentation by YouGov at the conference. This was to meet transparency standards and to avoid the need for reactive disclosure in response to FOI requests. Retailers would receive a tailored report of their results by end of August. The next steps would therefore be to devise actions that the GCA would take in response to the survey results so all related communications and key messages could be focused on the actions, in preference simply to the results. In response to concerns raised

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about the interpretation of the results, CT acknowledged that if some journalists wanted to concentrate on league table results, there was little that could be done about that except for the GCA and retailers to reinforce the same messages about the importance of the underlying messages rather than the raw data, and the actions to be taken as a result. AL explained that the published version would be a combination of the presentation made at the conference and the slides circulated to retailers in advance of the conference. The context and framing of the survey would be important.

GE presented an overview of the survey report and the proposed content of the individual retailer reports. There was a discussion on the survey. Some of the points noted were:

- It would be useful to have information split by direct and indirect suppliers, and trade associations on many of the responses;
- Future surveys should indicate if we want a collated corporate response or an individual one, and if appropriate to record if collated;
- It would be helpful if retailers were notified further in advance of any results appearing to be sensitive;
- Requests for the possible rephrasing of some of the questions in order to provide greater clarity on the required response;
- Supplier awareness of the presence of the CCOs, which was seen as a gradual change and would therefore take time;
- Sector engagement – the GCA is considering purchasing/gaining access to a supplier database. However, as a number of the retailers hold this information themselves it might be a better use of resources if they were to provide this information to the GCA. It would also enable the survey to be better targeted in future.

The results relating to supplier awareness that a supply agreement is in place had caused some concern, among retailers as well as with the GCA and CMA, which remains responsible for the provisions relating to written supply agreements, as these are in the Order and not the Code. The CMA would take up this issue with retailers to discover the range of current practice, and would then consider with the GCA what action to take in light of the results.

The GCA stated that it planned to publish the results of the survey and planned actions in late August/early September. Retailers would be given a copy of the survey results and a GCA press release in advance of publication.

NB: Subsequent to the meeting and other discussions, the date of release of the survey results is now likely to be in late September/early October to allow sufficient time for consideration of actions to address the weaknesses highlighted in the survey.

4 Next steps actions and timetable

Retailers were asked to provide specific feedback on the following key issues raised in the survey:

- Variation of supply agreements and terms of supply
- Unjustified charges for consumer complaints
- Obligation to contribute to marketing costs
- Delay in payments
- No compensation for forecasting errors
- Payment as a condition of being a supplier
- Not applying due care when ordering for promotions
- Not meeting duties in relation to de-listing
- Variation of supply chain procedures

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- Payment for wastage
- Payment for better positioning of goods unless in relation to promotion
- Payment for shrinkage
- Tying of third party goods and services to payment
- Not escalating concerns over breaches of the Code to senior buyer

CT asked retailers to consider whether any of the issues raised within the survey might reflect non compliance within their organisations, and to consider suppliers' responses to Q6a, in particular.

ACTION: Retailers were asked to provide their feedback and indications of any actions to which they would commit by mid-August.

5 Any other business

Forensic Auditing

CT noted that she has had several contacts from suppliers who have been given confusing information that retailers have not yet signed up to the voluntary commitment announced at the conference. .

ACTION: CT requested that the 8 retailers who agreed to the voluntary commitment should inform the GCA of the date and implementation plans for the commitment and in the meantime the GCA would continue to refer enquiries directly to the relevant retailer's CCO.

Annual Compliance Reports

BM requested that NT be sent a copy of the latest compliance reports.

CT thanked everyone for attending and for their work with the GCA over the last 12 months.

GCA

August 2014