



Groceries Code  
Adjudicator

# News from the Adjudicator

Special Edition

## Welcome from the Groceries Code Adjudicator



**Last week marked the completion of my first formal investigation. I thought readers of *News from the Adjudicator* would find it helpful to receive a special edition explaining how I believe the investigation will make a difference to suppliers and what my planned next steps are.**

My investigation into Tesco plc covered the period from 25 June 2013 to 5 February 2015 and I found that during that time the retailer had acted unreasonably by delaying payments to suppliers, often for lengthy periods of time. [Read my full report here.](#)

I identified three key issues which led to my finding that Tesco had breached the Groceries Supply Code of Practice: Tesco making unilateral deductions from suppliers, the length of time taken to pay money due to suppliers and in some cases an intentional delay in paying them back money owed.

As a result of my findings I have used my powers to require Tesco to make significant changes in the way it deals with payments to suppliers and with weaknesses in its systems and practices. These include stopping the retailer from making unilateral deductions from money owed to suppliers for goods supplied. Suppliers will be given 30 days to challenge any proposed deduction and if challenged Tesco will not be able to make the deduction until the disagreement is resolved.

I am also requiring Tesco to improve its systems and internal processes to support the prompt resolution of disputed invoices and to provide a single point of contact for suppliers to raise queries which have not been resolved promptly. And I've set a deadline for resolving pricing errors: they must be put right within seven days of a supplier notifying the company.

During the investigation I heard from some suppliers that it was difficult for them to understand the reasons for payments or deductions because of the way Tesco presented them. Invoices were sometimes unclear and the information provided non-specific, using descriptions such as "investment" without any indication as to what the investment was for.

I have said that I want to see much greater clarity and transparency in Tesco's dealing, including consistent language on invoices and supporting documentation and clearer explanations of the methodology used to calculate any money due from suppliers, which has to be set out in supply agreements.

Tesco has until 23<sup>rd</sup> February to provide me with a detailed implementation plan setting out how it will comply with my recommendations and I will be monitoring progress closely. I will require regular reports from the company on progress, including information on the number and value of invoices in dispute as well as the length of time they remain unresolved. The retailer has assured me it will implement my recommendations in full.

As my investigation was confined to Tesco the recommendations are for Tesco alone but the details in my report and my findings have set out a clear indication of how I interpret delay in payments, which is for the other nine retailers also. I will be discussing my report with the Code Compliance Officers and encouraging them to make sure that similar practices to those I found in the Tesco investigation do not exist in their companies.

The second part of my investigation covered payments for better positioning or increased allocation of shelf space. I did not find Tesco breached the Code in respect of direct requirements. I was concerned however to see practices that could amount to an indirect requirement for payment for better positioning or increased share of shelf space.

Such practices included large suppliers negotiating better positioning and increased shelf space in response to requests for investment from Tesco, as well as paying for category captaincy and to participate in Tesco range reviews.

I do not currently know how widespread these practices are but I am concerned that they may mean the Code is being circumvented to the detriment of smaller suppliers who cannot compete with payments on the scale that I saw. I have decided to launch a formal consultation with the groceries sector to help me reach a firm conclusion on how prevalent these practices are and whether they are consistent with the Code.

Suppliers, other organisations and individuals as well as retailers will all have an opportunity to feed in their views. Look out for the invitation to contribute – likely to be soon after Easter.

### **Providing me with information**

The investigation into Tesco was a very thorough piece of work. I analysed an enormous amount of information and met with a range of suppliers to discuss their relationships with Tesco. I am grateful to all the suppliers who took part; I recognise it was a lot of work for them to prepare the evidence I requested and I believe my recommendations will bring real benefits to all groceries suppliers.

This investigation and my report have been achieved without any supplier being identified. Confidentiality has been safeguarded at all stages. I trust this gives suppliers full confidence that they can bring information to me and it will be treated in a way that doesn't reveal their identities.

I continue to need information on the issues covered by this investigation, on my Top 5 issues and other areas. Telling me about issues as they arise is the most cost effective and efficient way to secure increased compliance with the Code. When I have evidence, I can act and when I act I can make a difference.

*Christine Tacon*

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Tacon**

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### **2016 Annual Conference**

The 2016 GCA Conference will be an opportunity to reflect on developments following the GCA investigation; please put this date in your diaries. We will be holding the conference this year at Church House in Westminster on Monday 27th June 2016. Details of the conference programme and timings as well as how to register will be available nearer the time.

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### **2016 Survey by YouGov**

Look out for the opportunity to tell the Adjudicator about your experiences in the Groceries sector over the past year. We are planning to launch this year's survey in mid-March.

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