



Groceries Code Adjudicator

Launch date: 31st July 2013

Response by: 22nd October 2013

Statutory guidance on how the Groceries Code Adjudicator will carry out investigation and enforcement functions

Executive Summary

The Groceries Code Adjudicator Act 2013 came into force on 25th June 2013.

The Adjudicator has been created to ensure that supermarkets treat their main suppliers lawfully and fairly, to investigate complaints and arbitrate in disputes. The role of the Adjudicator is to enforce the Groceries Supply Code of Practice set out in the Groceries (Supply Chain Practices) Market Investigation Order 2009. This order came into force on 4th February 2010.

Why we need an Adjudicator

Supermarkets are a vital part of our economy, and they do much good, through increased employment, consumer choice and their own commitment to corporate social responsibility. It is also recognised that the groceries sector is generally very competitive and offers good value to consumers.

The Competition Commission review in 2009 found clear evidence that the excessive use of buyer power by large supermarkets could lead to adverse effects on consumers. The report found that, despite the groceries sector being competitive overall, some supermarkets were transferring excessive risk to their suppliers. The same Competition Commission report that recommended introducing the code of practice also recommended establishing an Adjudicator to enforce it. The [Groceries \(Supply Chain Practices\) Market Investigation Order 2009](#) (GSCOP) was introduced in 2010.

Recognising the Government's aim of limiting regulation and looking for alternative options, the large supermarkets were given an opportunity to create an Adjudicator themselves. The industry was unable to agree a means to self-regulate and so a statutory approach has proved necessary.

The Adjudicator provides an anonymous route for complaints about how the GSCOP is being applied by retailers. Suppliers have been reluctant to make direct

complaints to retailers due to the perceived risk that such a challenge may result in adverse action against the complainants.

The statutory guidance

A requirement of the legislation is that the Adjudicator must publish guidance explaining how the Groceries Code Adjudicator will run investigations, decide on enforcement actions and the penalties to impose, as a result of complaints about GSCOP breaches. The guidance sets out the steps the Adjudicator will follow and the actions available, including how and when sanctions will be applied. The consultation will be open to the public to comment.

You should read this document alongside the draft Statutory Guidance, published separately.

Consultation questions

- 1 Is the guidance clear on how the **investigation criteria** will be applied?
If not, how can this be improved?
- 2 Does the **complaints** procedure explain how the Adjudicator will deal with complaints?
If not, how can this be improved?
- 3 Does the **investigations** procedure explain how the Adjudicator will deal with investigations?
If not, how can this be improved?
- 4 Does the section on **enforcement powers** explain how the Adjudicator will choose whether to use these and which ones?
- 5 The Adjudicator proposes that the maximum **financial penalty** for breaches of the Code is 1% of UK turnover. Do you agree? If not, what do you think the maximum financial penalty for Code breaches should be?

- 6 This statutory guidance explains: (i) how the Adjudicator will decide whether to carry out investigations; (ii) how the Adjudicator will carry out investigations; (iii) how the enforcement powers will be applied; and (iv) the criteria the Adjudicator intends to adopt in calculating financial penalties.

The Adjudicator is happy to provide later, **additional guidance** should that be useful. For example, we expect to provide guidance on the appeals process and arbitration. What additional guidance would you like to see?

- 7 Do you have any other comments to make on the guidance?

Who is the consultation aimed at?

This consultation seeks the views of the Groceries sector and in particular, large retailers and direct suppliers to those retailers and their respective representative bodies. Views are also welcomed from other retailers, indirect suppliers to the large retailers, other representative bodies and those with an interest in the groceries sector such as producers, farmers and consumers.

How to respond

The consultation period began on 31st July 2013 and will run until 22nd October 2013. Please ensure that your response reaches us before the closing date by: e-mail to enquiries@gca.gsi.gov.uk marked '**Consultation Response**' or by downloading the response form which should be completed and e-mailed to the address above or sent to:

Angela Latta
Groceries Code Adjudicator
2nd Floor
Victoria House
Southampton Row
London, WC1B 4DA

When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

If you would like further copies of this consultation document, it can be found at:
<https://www.gov.uk/government/publications>

Consultation principles

The consultation is being conducted in line with the Government's key consultation principles and further information on these is available on the gov.uk website at:
<https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have any comments about the consultation process please contact Angela Latta at the address given in the *How to respond* section.

What will happen next

A summary of responses will be published and the guidance will be issued by 25th December 2013 on: <https://www.gov.uk/government/publications>.

The financial penalties limit requires the approval of the BIS Secretary of State before fines can be imposed. Following the consultation, the Adjudicator will advise the Secretary of State of the recommended maximum financial penalty limit. It will then be for the Secretary of State to make an Order in Parliament setting out the maximum penalty or to set the method by which it should be calculated.

Paper copies will be available on request.

The Groceries Code Adjudicator

Further information on the GCA can be found at:
www.gov.uk/government/organisations/groceries-code-adjudicator

© Crown copyright 2013

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. Visit www.nationalarchives.gov.uk/doc/open-government-licence, write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

This publication is also available on our website at www.gov.uk/

Any enquiries regarding this publication should be sent to:

Groceries Code Adjudicator

2nd Floor

Victoria House

Southampton Row

London, WC1B 4DA

If you require this publication in an alternative format, email enquiries@gca.gsi.gov.uk, or call 020 7271 0281.