

Record of GCA Group meeting with Code Compliance Officers 10th November 2014, 09:30 a.m – 11:30 a.m	
Location	Purpose of meeting
GCA, Victoria House, Southampton Row, London	Collective discussion with Code Compliance Officers
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>James Courtenay, Investigations Manager</p> <p>Jenny Hendricks (JH), Office Manager</p> <p style="text-align: center;">CMA</p> <p>Bob McDowall (BMc), CMA Market Remedies Team</p> <p style="text-align: center;">Simply Supply Chain</p> <p>Jonathan Kittow (JK) <i>For item 6 only</i></p>	<p style="text-align: center;">CCOs</p> <ul style="list-style-type: none"> • Aldi Stores Limited – Jonathan Ward (JW) • Asda Stores Limited – Alex Simpson (AS) • Co-operative Group Limited – Phil Willsmer (PW) • Lidl UK GmbH – Patrik Bures (PB) • Marks & Spencer plc – Max Gillibrand (MG) • Wm Morrison Supermarkets plc – Steven Butts (SB) • J Sainsbury plc – Susannah Hall (SH) • Tesco plc – David Ward (DW) • Waitrose Limited – David Roberts (DR) <p style="text-align: center;">Observers</p> <ul style="list-style-type: none"> • Asda Stores Limited – Mark McCombe, Matt Wood • Co-operative Group – Bridget Groarke, Tom Chinnery • Iceland Foods Limited – Neil Callow • Lidl UK GmbH – Tim Belser • Marks & Spencer plc – Robert Steadman, Joanna Dyson • Wm Morrison Supermarkets plc – Ross Eggleton • J Sainsbury plc – Dafydd Pugh, Andy Colviin • Tesco plc – Chris Moss • Waitrose Limited – Damen Bennion

1 Introductions (CT)

CT thanked everyone for taking the time to attend the meeting. As there were additional attendees from the retailers other than Code Compliance Officers, roundtable introductions were made.

2 GCA Overview and forward look (CT)

CT explained that having reflected on progress made since the last group meeting, such as the quarterly meetings, conference and the survey handling, now would appear to be a good time to remind the group of her thoughts on the collaborative approach and how she hopes it is working. The GCA wrote to all retailer CEOs in July outlining her planned approach and, with subsequent discussions taking place following this letter with CEOs or other designated Board level contacts. There were no concerns raised about this approach which was well received.

A collaborative approach means that we can find better and quicker ways to address the issues that suppliers raise without the need for an investigation, although in some areas there appears to be sufficient evidence. With collaboration comes certain expectations and the GCA's aspiration is that retailers understand CT's position and remit as a regulator to monitor, enforce and ensure compliance with the Code and that takes a number of different forms. Up to this point it has worked by CT sharing issues she has heard about and the CCOs then looking into whether the practices exist in their organisations. CCOs have also

responded well in looking into the Top 5 issues. This approach is working and CT has been hearing this from a number of suppliers who report that practices are changing.

CT observed that the GCA has moved into a new phase where the second year sees a consolidation of the relationships we have built with CCOs and others and the knowledge the GCA now has on the retailers and how they operate on Code related areas. It is helpful to provide clarity on a few things:

- At the GCA conference in June CT drew parallels with Health and Safety about the need for compliance to be embedded. The CCOs are CT's route into the retailer businesses and an important link in helping the retailers understand the GCA's priorities.
- Many suppliers see coping with requests from buyers that may not be Code compliant as part of the cut and thrust of commercial life. However, these requests are still breaking the law. We cannot have a situation where 85% of the suppliers who complete our survey next year are experiencing potential Code breaches which are explained away as commercial negotiations.

Change of emphasis

CT explained that moving forward the GCA will be looking to:

- Bring issues that have been raised previously with CCOs to a conclusion, either by closing the issue or taking another course of action.
- Have more targeted contact with suppliers and retailers on sector supply chain practices.
- Flesh out issues that have been raised – talking to suppliers and trade associations that have raised them.
- Asking suppliers to provide more evidence based information when contacting the GCA and if they will not, then informing them that the GCA will not pursue these issues unless this is provided.
- The GCA's approach and expectations to retailers has changed as well, with less frequent requests for information being made, but when information is requested it will be generally be more detailed and specific. As evident in a recent letter sent on consumer complaints and forecasting.

This is in keeping with the three stage approach that CT had previously discussed with CCOs and as detailed in the GCA Annual Report:

Stage 1: *Considering whether an issue raised with me falls under the Code and whether it is an isolated occurrence or more than that. In some circumstances, as most of you know, I have raised single incidents you as well.*

Stage 2: *Discussing the issues with all or individual CCOs, asking you to look into whether a breach has happened. Depending on the outcome of that, I'll consider whether to issue advice clarifying or interpreting the Code. I've been publishing summaries of these issues and the outcome on our website.*

Stage 3: *Consider, if the practice continues, issuing more formal guidance and/or launching an investigation.*

Last quarterly CCO meeting

At recent quarterly meetings CCOs were provided with an update of the GCA's progress on next year's survey and conference amongst other things and are happy to answer any further questions CCOs may have.

Communications - understanding of the GCA role

CT has become increasingly aware that there appears to be a wide misunderstanding of her role, principally in relation to pricing but also in relation to indirect suppliers. CT is therefore planning to write an article, most likely for the Grocer or a similar publication, explaining the role of the GCA. It is hoped that the additional communications undertaken, such as the first GCA newsletter launched in October, will help in getting the message across.

3 Feedback on Top 5 Issues (CT)

CT provided the group with an update on the status of the Top 5 issues.

- Drop and drive (delivery performance):
Jonathan Kittow presented a session on this at the end of this meeting (details below).

- Forensics: third party audits

CT has had a number of discussions on this issue and is pleased that the majority of retailers have signed up to the commitment. The length of time taken for the full implementation by some retailers, however, is disappointing. This is why CT had requested that retailers inform their suppliers of their policies by the end of October, and that full implementation of the commitment by the end of March 2015. This issue will now be closed and will be removed from the Top 5 issues list.

- Packaging and design charges

This issue is raised frequently by suppliers concerned with being tied to a restricted number of packaging suppliers, or being asked to pay for artwork and design at a higher cost than they can obtain elsewhere. At recent CCO meetings the retailer's position on this issue has been noted.

The GCA is looking at the information suppliers have provided on this issue, and it therefore remains live.

- Request for lump sum payments (Lump sums/Joint Business Plan's)

CT thanked CCOs for the information they had provided on this issue at the last quarterly meeting and earlier on in the year. This has provided the GCA with clarity on most retailers' position on requesting lump sum payments. Suppliers continue to contact CT about lump sum requests, although sometimes with partial information, and so this part of the issue will remain live.

The Joint Business Plan element has been moved to 'Forecasting' under the Top 5 issues, and the margin maintenance aspect has moved to Supply Agreements. The CMA has recently written to all 10 retailers requesting information on Supply Agreements and the GCA will wait to see what, if any action the CMA takes in the near future.

BMc informed the group that retailer responses received will be fully reviewed by the CMA, which will take some time. Once reviewed the CMA will feedback to the retailers. BMc explained lump sums was an issue that the CMA had been hearing about for some years now, and that it is necessary to ensure that both the retailers and suppliers understand exactly what their supply agreements mean. BMc offered to take any question on this matter at the end of this meeting.

- Forecasting/service levels

This issue is being progressed by the GCA. CT sent a letter to CCOs on 3 November requesting information on consumer complaints and forecasting. Responses to this are expected in February, after which they will be reviewed and discussed at the next CCO meeting. A decision will then be taken on how best to progress this issue.

- **Consumer Complaints**

This is a new issue that CT has added to the Top 5, and was mentioned in the letter sent to CCOs as discussed above. This should not be too onerous as it is simply a matter of the CCOs showing how the business deals with this issue and is complying with the Code.

CT clarified that the Top 5 would always be the 5 most identified causes for concern under consideration by the GCA, and therefore would evolve over time.

4 Guidance (HGL)

HGL has provided CCOs with a copy of draft de-listing guidance prior to the meeting. This document is written as a guideline/framework that the GCA will apply when assessing information received in this area, largely with arbitration use in mind. HGL asked CCOs to provide any comments on the draft and areas that are not covered.

Clarity was requested on the reference to *external factors to consider*, particularly in terms of incidents such as the 'horsemeat' scandal. HGL explained that the GCA would not seek to define what an appropriate or timely response would be and in the case of public safety issues then clearly retailers would need to consider what is reasonable notice, which would be different to a commercial de-listing. The best approach would be for all concerned to work in an appropriate and timely manner, in recognition that all case will be different due to things like; the duration and volume of products supplied; whether they are branded or unbranded; the type of product; the proportion of the suppliers' business that entails; whether investments have been made by suppliers based on continued listing. The aim is that the guidance covers the main areas that any de-listing discussion should include.

The overall content of the draft was discussed and suggestions were made for the possible inclusion of a few words on consistency of approach, and notice period. The group consensus was that the guidance was well written, dealt with the main areas of concern and would be very useful for both retailers and suppliers.

5 Sharing Best Practice on Compliance Training (AL)

AL explained that at recent CCO quarterly meetings a few of the CCOs expressed an interest in sharing best practice on compliance training as a group. DW had spoken at the GCA's conference in June about training and SB has been asked to speak to the group today.

SB provided the group with an overview of the Wm Morrisons compliance training from its infancy with face to face session, to the present where e-learning is used in conjunction with annual follow up training. The e-learning package has consists of standard multiple choice questions which can be used at anytime throughout the year and facilitates the swift identification of any areas which have not been fully understood and for which a training brief should be sent as a follow up. Face to face training with buyers is delivered, known as 'Know your responsibility'. The training blends GSCOP, policy development and pricing on promotions, runs over 2 hours and includes video scenarios and interactive quizzes. The scenarios presented require thought and are not all straightforward. There are approximately 500 people

within the business that need to be trained in sessions that are 50 people each time, and so feedback can be time consuming. The training is linked to the business' training management system and therefore captures all the relevant data as to who has received training and when. Overall the training has been well received SB has been able to provide trainees with live information feedback based on discussions with the GCA.

The group found the detail provided by SB informative and provided some positive feedback in terms of considering a similar approach for their businesses, noting that some retailers have more case study material to build into their training than others. SB offered to have further discussion with CCOs outside of the meeting if they would find that useful.

CT noted that although there is no legal requirement for suppliers to be trained and understand the Code, it would however be useful if they were to have an understanding. At the present time the British Brands Group appear to be the only organisation offering compliance training access to suppliers.

JK joined the meeting

6 Improving Delivery Performance - A presentation by 'Simply Supply chain'(JK)

CT introduced JK, a specialist FMCG-focused supply chain consultant, who had brought together a group of approximately 20 chilled suppliers, to look into the issue of drop and drive.

As discussed at previous CCO meetings, CT stated that suppliers had raised concerns that the drop and drive process led to a delay in payments of monies due, due to disputes about what had been delivered.

JK gave a presentation detailing the drop and drive process, the findings of the group (including the different 'error rates' between retailers and the retailers' depots), the group's suggested way forward and a request for retailers to join a working group(s) with suppliers to find ways of reducing down the error rates.

JK took questions from retailers providing clarification on points in the presentation and information circulated prior to the meeting.

CT thanked JK for his presentation and asked that retailers consider what to do with the information provided and how to take things forward. The GCA will review the issue in the future to decide whether the GCA needs to undertake further work on the issue or it can be closed as a Top 5 issue.

JK left the meeting

7 ANY OTHER BUSINESS (CT)

CT informed the group that she plans to host a 'Board level Heads of Compliance' meeting, which may be an annual meeting thereafter if attendees found it useful. This is something that happens in other industries (such as Banking), and is intended to share best practice on compliance. It is hoped that the meeting will be in January/February with the chairs of retailer Audit Committee (or equivalent) invited to attend. CT would like CCOs to consider the names of those best to invite to this meeting and advise the GCA office. This will be in time for your Audit Committees to review the Annual Compliance Reports which will be one of the topics in the agenda.

CT will see CCOs at the next quarterly meetings in December.

The GCA plan to have the next Group CCO meeting in around six months time. JH will be in touch soon to book this in diaries.