

September 2016 Quarterly CCO meetings

Record of the Groceries Code Adjudicator (GCA) Quarterly Meetings with Code Compliance Officers (CCO)	
Location	Purpose of meeting
GCA, Victoria House, Southampton Row, London	Quarterly progress meetings
Attendees	
<p style="text-align: center;">GCA</p> <p style="text-align: center;">Christine Tacon (the GCA)</p> <p style="text-align: center;">Helen Gordon-Lee (HGL) <i>All except Aldi, Co-op and Iceland</i></p> <p style="text-align: center;">Matthew Sabourin (MS)</p>	<p><u>7 September 2016</u></p> <ul style="list-style-type: none"> Waitrose Limited – David Roberts, Sarah Tomsett and Catherine Hasler <p><u>12 September 2016</u></p> <ul style="list-style-type: none"> Marks and Spencer plc – Max Gillibrand and Robert Steadman Asda Stores Limited – Alex Simpson and Sarah Dickson <p><u>14 September 2016</u></p> <ul style="list-style-type: none"> Wm Morrison Supermarkets plc – Steven Butts and Mark Amsden Aldi Stores Limited – Jonathan Ward and Chris Young Lidl UK GmbH – Tim Belser <p><u>19 September 2016</u></p> <ul style="list-style-type: none"> Tesco plc – David Ward and Emer Kelly J Sainsbury plc – Susannah Parden and Dafydd Pugh <p><u>20 September 2016</u></p> <ul style="list-style-type: none"> Co-operative Group Limited – Phil Willsmer, John Leyden and Peter Fenton <p><u>21 September 2016</u></p> <ul style="list-style-type: none"> Iceland Foods Limited – Duncan Vaughan
Key Points Raised	
<p>GCA update</p> <p><u>BEIS review of the GCA and call for evidence</u></p> <p>The GCA would meet Margot James, the Minister for Small Business, Consumers and Corporate Responsibility in September. It was likely that the BEIS review of the GCA and call for evidence would be published soon after that meeting, although no date was yet scheduled.</p> <p><u>Meeting with the Chairs of each retailer's audit committee</u></p> <p>The GCA was meeting with the Chairs of each retailer's audit committee (or equivalent) during September and October. An agenda had been circulated along with papers which highlighted the GCA's current activity and summarised findings from a review of the annual compliance reports provided by each retailer. Any generic feedback from these meetings would be communicated at the October Group CCO meeting.</p>	

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Delay in payments

The GCA reminded CCOs that the interpretation of the Groceries Supply Code of Practice (the Code) set out in the report of the investigation into Tesco plc was a clear statement of her view as to what is and is not Code-compliant behaviour under paragraph 5 of the Code and as such, is binding on all retailers. The GCA indicated that this Top 5 issue would be on the agenda at a meeting of all CCOs in October 2016.

Pay to stay

The GCA set out her view that this was an emerging issue in which it appeared that suppliers may be indirectly required to pay lump sums to keep their business with a retailer, not as part of normal commercial negotiations. These appeared to be payments as a condition of being a supplier, contrary to paragraph 9 of the Code.

The GCA highlighted that the inclusion of this as one of her Top 5 issues was to encourage direct suppliers and others to give her information about circumstances in which they have been asked to make payments contrary to paragraph 9 of the Code, or other possible interpretations of 'pay to stay' that might derive from different provisions of the Code.

The GCA indicated that some direct suppliers might view a request for a lump sum payment as something required in order to remain listed.

Margin maintenance

The GCA gave an update on her views on the Top 5 issue of margin maintenance. She considered that this was a practice that had declined overall across the groceries sector, however this also made it a good time to interpret the Code clearly for the future. The inclusion of margin maintenance as a Top 5 issue was to signal to suppliers and others that she was keen to hear more about this issue from them, to inform her work on it.

Consultation on payments for better positioning of goods

The deadline for responses to the consultation was 19 September 2016.

CCO progress report

CCOs provided hard copies of their quarterly compliance progress reports, which covered the areas on the agenda. The reports were reviewed and discussed.

Key Discussion items

Drop and Drive

The GCA closed this issue in November 2014 because retailers were making progress in addressing the issues in relation to drop and drive that may lead to a potential breach under part 4 (paragraph 5) of the Code (delays in payment). This issue nonetheless remained subject to ongoing monitoring by the GCA.

The GCA reviewed progress at each of those retailers which make use of the drop and drive practice. The GCA indicated that this was an area that had been a high profile issue now for over 2 years and that suppliers were still reporting deductions being made for non-delivery of goods supplied which they believed to have been delivered. While retailers were trialling systems to resolve the issue, the GCA stated that they needed to ensure that they also had appropriate processes in place to deal with any challenges to deductions made during the transitional period.

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Consumer Complaints

The GCA issued a best practice statement on consumer complaints in August 2015, noting that retailers' policies appeared to be compliant with the Code.

The GCA reviewed progress at each retailer towards the best practice position outlined in her statement.

Artwork and design services, with particular reference to treatment of optional lines in the Code

The GCA received an update from the nine retailers that charged for artwork and design services on progress in reviewing their practices.

The GCA received views from CCOs on her previously stated opinion that, in relation to paragraphs of the Code which include the phrase 'unless provided for in the supply agreement', these parts of the Code should be subject to negotiation between suppliers and retailers; that there must be evidence of opt-outs from the Code being individually negotiated with suppliers and genuinely agreed; and that there could not be a universal and automatic agreement from every supplier to these opt-outs. The GCA acknowledged that this might not be practicable or indeed to suppliers' overall benefit. It might also go beyond the requirements of the Code. The GCA would consider the views received on this matter and respond to the Group CCO meeting in October.

Invitations to suppliers to charity balls and evening receptions

The GCA had previously indicated that a concern had been raised with her about suppliers feeling under pressure to pay to attend charity balls, evening receptions or other similar events hosted by retailers. Each retailer outlined its policy in this area and the number and types of events that it ran. The GCA would consider all the responses and would say more at the Group CCO meeting.

AOB

Training for direct suppliers in the Code

The GCA had asked the CCOs to assist her in highlighting to direct suppliers the importance of being trained in the Code. Retailers told the GCA what they were planning to do and in particular, to publicise the recently published GCA directory of companies and individuals known to provide training.

Brexit and treatment of currency fluctuations

The GCA indicated that a concern had been raised with her that retailers had in some cases within the last 2 years requested cost price reductions where suppliers had benefitted from currency fluctuations or weak commodity prices, but would not now discuss ways to support suppliers where the supplier was affected by recent currency fluctuations following the referendum on 23 June 2016. The GCA gave her view that where a retailer had recently sought to vary a supply agreement in relation to currency fluctuations or developments in commodity prices in the past, it should be open to discuss the issue with the supplier if requested.