



Groceries Code
Adjudicator

Groceries Code Adjudicator **Response to consultation on payments for better positioning**

7 February 2017



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Executive summary

Purpose of the consultation

Following the investigation by the Groceries Code Adjudicator (GCA) into Tesco plc which considered the issue of payments for better positioning of goods under paragraph 12 of the Groceries Supply Code of Practice (the Code), the GCA announced a consultation with the groceries sector on the proper scope of indirect requirements for payment to secure better positioning of goods or increased shelf space within a store.

The GCA was aware of a range of practices relating to payments for better positioning and allocation of shelf space, and wanted to know more about them and in particular, their impact on direct suppliers.

Responses to this consultation helped the GCA understand how widespread these practices are among the 10 retailers regulated under the Code, what forms they take, their impact on suppliers and their effect on competition and consumer choice. This response from the GCA gives an indication of what the proper scope of paragraph 12 of the Code should be, specifically in relation to indirect requirements for payment to secure better positioning or increased shelf space. The response does not interfere in freely held commercial negotiations which are beyond the reach of the Code.

Consultation process

The consultation opened on 27 June 2016 and closed on 19 September 2016. It sought the views of the groceries sector and in particular, large retailers covered by the Code and direct suppliers to those large retailers and their respective representative bodies. Views were also welcomed from other retailers, indirect suppliers, other representative bodies and those with an interest in the groceries sector such as producers and consumers. The consultation was launched in digital format enabling responses to some or all of the questions to be submitted online as well as through more traditional approaches such as e-mail and post. Responses in the form of a letter setting out views were also accepted.

A workshop with direct suppliers was held at the GCA's annual conference and a separate one with trade bodies representing direct suppliers.

The GCA received a range of responses to the consultation, from suppliers of different products and of varying business size. Written responses were received from the 10 regulated retailers and one trade association. A summary of who responded is set out in the table in the Annex to this consultation response.

GCA conclusions

The GCA has concluded that while some limited information or anecdotal evidence was provided of practices which might be in breach of the Code, there was not enough information provided to support the need for interpretative guidance or other regulatory intervention. It appears that there has been a change in the approach taken by the regulated retailers in the period since the appointment of the GCA in 2013, to bring practices into line with the requirements of paragraph 12 of the Code. This is consistent with the general improvement in compliance with the Code reported in the GCA annual grocery sector survey and reinforces the benefits of the collaborative regulatory approach pioneered by the GCA. By highlighting potential concerns about this issue in the report of the investigation into Tesco plc, it appears that the GCA has successfully incentivised all regulated retailers to consider further their practices in this area and to ensure they are Code-compliant.

This consultation response nonetheless summarises current market practice and draws conclusions. Accordingly, it serves a number of purposes:

- It indicates at a high level what practices exist in relation to:
 - indirect requirements by retailers either when a retailer requests or a supplier offers money for better positioning or as part of a wider commercial negotiation;
 - payments for category captaincy or category management; and
 - payments to participate in range reviews.
- It gives a strong indication as to what is and is not likely to be Code-compliant behaviour, although the conclusions are not exhaustive; and
- It builds on and effectively brings up to date the market investigations undertaken by the Competition Commission in 2000 and 2008, taking into account current views from the groceries sector on the proper scope of paragraph 12 of the Code.

Indirect requirements by retailers either when a retailer requests or a supplier offers money for better positioning or as part of a wider commercial negotiation.

The Code does not permit direct or indirect requirements from retailers to suppliers for payments for better positioning or increased shelf space unless in relation to a promotion.

It is the GCA's view that any retailer demand for payment to be made other than in accordance with the Supply Agreement that results in a supplier negotiating better positioning in return is not part of normal commercial negotiations and might amount to an indirect requirement contrary to paragraph 12 of the Code.

Discussions about 'investment' and offers of payments made by suppliers to retailers that might come together with a discussion about better positioning or increased space should demonstrably be freely held as part of normal commercial negotiations, if they are to comply with paragraph 12 of the Code.

Payments for category captaincy and category management

The GCA considers that any direct or indirect requirement from retailers to suppliers to make any payment to participate in category captaincy or category management and which results in the supplier receiving better positioning or increased space, is likely to be a breach of paragraph 12 of the Code.

The GCA has noted the responses from suppliers who provide category advice that they do this to help grow the category as a whole and to improve the overall offer to consumers. The GCA supports this as the principal aim of category advice provided by suppliers.

The GCA has noted that some retailers have clear policies on how they manage supplier involvement in category advice, including how they make sure that suppliers involved in this activity act objectively. Not all retailers mentioned whether they had such policies. It might be prudent for regulated retailers who engage with suppliers on category captaincy or category management to have a policy setting out how they manage supplier involvement, including consideration of whether other suppliers are able to contribute to or challenge the category advice received from the appointed category captain or category manager.

Payments to participate in range reviews

The GCA considers that any direct or indirect requirement from retailers to suppliers to make any payment to participate in a range review and which results in the supplier receiving better positioning or increased space, is likely to be a breach of paragraph 12 of the Code.

While several retailers indicated that they had policies setting out how they managed category advice from suppliers, none expressly indicated that it had any policy in relation to supplier participation in range reviews. This might be something for retailers to consider in future.

Background information

The Groceries Code Adjudicator and the Groceries Supply Code of Practice

The Groceries Code Adjudicator (GCA) was formally established on 25 June 2013 by an Act of Parliament. The GCA was set up to ensure supermarkets treat their suppliers lawfully and fairly. The GCA is responsible for monitoring and encouraging compliance with and enforcing the Groceries Supply Code of Practice (the Code), which was introduced in 2010.

The Code was put in place by the Competition Commission following its market investigation of the supply of groceries in 2006-08. It is intended to remedy the adverse effects on competition found by the Competition Commission to arise from groceries supply chain practices which transferred excessive risks and unexpected costs to suppliers and which prevented, restricted or distorted competition.

The Code applies to the 10 groceries retailers which at that time had a UK annual groceries turnover of more than £1 billion. It governs their relationships with their direct suppliers. The regulated retailers are: Aldi Stores Limited, Asda Stores Limited, Co-operative Group Limited, Iceland Foods Limited, Lidl UK GmbH, Marks & Spencer plc, Wm Morrison Supermarkets plc, J Sainsbury plc, Tesco plc, and Waitrose Limited.

In brief, the Code obliges these retailers:

- a. To deal fairly and lawfully with their suppliers;
- b. Not to vary supply agreements retrospectively, except in circumstances beyond the retailer's control which are clearly set out in the relevant Supply Agreement;
- c. To pay suppliers within a reasonable time;
- d. Not to seek contributions to marketing costs unless this is provided for in the relevant Supply Agreement;
- e. Not to seek compensation for shrinkage;
- f. Not to seek payments for wastage except in limited circumstances;
- g. Not to charge listing fees, except in limited circumstances;
- h. To compensate suppliers for forecasting errors;
- i. Except in limited circumstances, not to tell suppliers which third party suppliers to use;
- j. Not to charge position payments unless they relate to a promotion;
- k. Not to require suppliers predominantly to fund promotions;
- l. Not to over-order at promotional prices;
- m. Not to require suppliers to make unjustified payments for consumer complaints; and
- n. To de-list suppliers only for genuine commercial reasons and to give reasonable notice of and the opportunity to discuss delisting with the retailer's Code Compliance Officer.

Competition Commission findings in 2000 and 2008

The issue of payment for better positioning was recognised by the Competition Commission in its 2000 supermarket inquiry. It found that *"the practice of requiring or requesting suppliers to make payments for better positioning of products within their stores... adversely affects the competitiveness of some of their suppliers and distorts competition in the supply of groceries between suppliers"* because *"the multiple engaging in the practice does not necessarily select the best, or most efficiently produced product, or that preferred by consumers, but to some extent is influenced by whoever is best able to make the payment requested."*

The report discussed the distinction between a requirement and a request. It stated that *"where the request came from a main party with buyer power, it amounted to the same thing as a requirement."* These conclusions, set out in the analysis underpinning the 2000 report, resulted in the inclusion of the provision on better positioning in the 2002 Supermarket Code of Practice. The 2008 Competition Commission report did not recommend any changes to that provision and it was subsequently included in the Code.

The 2008 Competition Commission report recommended that a principle of fair dealing be included in the Code as *"an important safeguard against the transfer of excessive risk and unexpected cost from grocery retailers to their suppliers."* Paragraph 2 of the Code adds an overarching principle of fairness to aid the interpretation of each of the practice-specific provisions of the Code. The principle stems from recognition of the inequality of bargaining power that sometimes exists between the regulated retailers and their suppliers. The thinking behind the provision is further explained in the Explanatory Note to the Code, which states that the provision *"will add a useful context within which the GSCOP should be interpreted. The fair dealing provision emphasises the need for certainty on the part of suppliers regarding the risks and costs of trading."*

Investigation into Tesco plc

On 26 January 2016, the GCA published the report of the investigation into Tesco plc ('the investigation') in relation to paragraphs 5 and 12 of the Code. Tesco plc was found to have breached paragraph 5 of the Code. No breach was found in relation to paragraph 12. However, the GCA was concerned to find evidence of practices that could amount to an indirect requirement for payments to be made by suppliers to secure better positioning or an increased allocation of shelf space. These practices included large suppliers negotiating better positioning and increased shelf space in response to requests for 'investment' from the retailer, as well as paying for category captaincy and to participate in range reviews. As a result of this, the GCA set out in the report of the investigation the intention to consult the sector about what practices exist, how widespread they are, and what effect they have on suppliers and consumer choice in store, so that the GCA could determine whether or not they are consistent with paragraph 12 of the Code.

The regulatory framework

Paragraph 12: No payments for better positioning of goods unless in relation to Promotions

Paragraph 12 of the Code states: *"A Retailer must not directly or indirectly Require a Supplier to make any Payment in order to secure better positioning or an increase in the allocation of shelf space for any Grocery products of that Supplier within a store unless such Payment is made in relation to a Promotion."*

Paragraph 2: Principle of fair dealing

Paragraph 2 of the Code on fair dealing is also relevant to this consultation, because it is intended to assist in the interpretation of paragraph 12, as it is for all of the practice-specific provisions of the Code. This states: *"A Retailer must at all times deal with its Suppliers fairly and lawfully. Fair and lawful dealing will be understood as requiring the Retailer to conduct its trading relationships with suppliers in good faith, without distinction between formal or informal arrangements, without duress and in recognition of the suppliers' need for certainty as regards the risks and costs of trading, particularly in relation to production, delivery and payment issues."*

Code clarification case study: charging for optimum shelf positioning

The GCA clarified two aspects of paragraph 12 of the Code in December 2013, and in March 2014 published a case study which determined that if a retailer were to request payment from a supplier for better positioning, and a consequence to the supplier of declining the request were, or were understood by that supplier to be, comparatively worse positioning, that would effectively be a requirement contrary to paragraph 12 of the Code. This is because the inference a supplier would draw from such a request is that unless they agreed to it, they would suffer some detriment. This was a key publication by the GCA in relation to the scope of "indirect requirement".

The second aspect that was clarified related to eye-level positioning. This is clearly optimal positioning of products within a store, at a height which is easy to reach and is also likely to be the first shoppers see. Some of the practices covered by this consultation are not so clearly about physical positioning within a store. The GCA has in this response to the consultation sought to give greater clarity to the sector about what it should understand to be the link between any payment made and any benefit achieved by it, specifically relating to better positioning, and how direct this needs to be to fall within paragraph 12 of the Code.

Summary of responses

Given the number and specific nature of the questions asked in this consultation, this document summarises the responses under the following headings:

- i. Indirect requirements by retailers either when a retailer requests or a supplier offers money for better positioning or as part of a wider commercial negotiation;
- ii. Payments for category captaincy or category management; and
- iii. Payments to participate in range reviews.

Indirect requirements by retailers either when a retailer requests or a supplier offers money for better positioning or as part of a wider commercial negotiation

Responses from suppliers indicated that requests for lump sum payments or ‘investment’ had largely stopped happening although a few noted that this had occurred occasionally over the last three years. Some suggested that retailers asked for money in general terms and put the onus on suppliers to seek benefits in return, including better shelf positioning.

Some large suppliers reported that they voluntarily made offers of investment, or that their joint business plan with a retailer might contain provision for payments to be made to the retailer if something was then provided in return. Discussions on better positioning or shelf space might genuinely be instigated by a larger supplier in the context of offering investment or making payments.

Smaller suppliers noted that they were generally not in a position to be able to make offers of investment to retailers. Many suspected that larger suppliers sometimes offered payments to retailers and felt this put them at a disadvantage because larger suppliers secured better positioning or increased shelf space as a result. Responses from smaller suppliers did not include any specific evidence of this but responses from larger suppliers broadly indicated that this assumption was correct, although the offers were freely made by the larger suppliers concerned.

One trade body suggested that payments for shelf positioning were no longer a significant issue. There was a divergence of views between members of the trade body, some of whom considered that the ability to offer payment and in that context to ask for better positioning or increased shelf space, was an important commercial freedom; others believed that shelf space should be allocated only according to consumer need and product performance.

The majority of the regulated retailers were clear that they did not ask suppliers for payment to secure better positioning or increased shelf space. Some retailers indicated that they accepted payments for better positioning or increased shelf space but only where these were offered in the context of normal commercial negotiations: there was no direct or indirect requirement for such payments. Some retailers indicated that in the context of receiving

offers of investment from suppliers, shelf space and better positioning would come up as something suppliers would be keen to secure in return. Where it did, practice varied, with some retailers declining payments that were clearly linked to shelf space or better positioning while others were willing to discuss this with suppliers in the context of normal commercial negotiations or the development of joint business plans. References were made to EU competition case law to the effect that suppliers could pay for shelf space so long as this did not exceed their market share less 5%.

The GCA has noted that payments may be made for incremental space for goods at full price such as front of store or gondola end, which sometimes coincide with a particular seasonal event, sporting activity or holiday. The GCA does not consider that this raises a Code issue.

Perhaps most importantly in relation to paragraph 12 and discussions about ‘investment’, retailers emphasised that they maintained ownership of decisions about the positioning of goods. Some went further, explaining that space and positioning within a store were determined by their merchandising teams or local management, not their buying teams. Allocation of space was largely driven by the data analysing consumer behaviour or giving preference to brands which showed better sales performance.

Payments for category captaincy or category management

Responses from suppliers indicated that payment for category captaincy and for involvement in category management had declined over recent years. Of those suppliers that were involved in category management, most indicated that they did not pay for this and explained that their involvement was to provide impartial, unbiased advice with the intention of growing the overall category. Larger suppliers were more likely to act as category captains or support category management and they did this by providing data, advice and embedded staff. These suppliers did not think that category captaincy or management was used by suppliers to achieve better positioning or more space and did not believe that smaller suppliers were disadvantaged by not having the resources to participate. In contrast, responses from smaller suppliers suggested that their lack of resources or access to data meant that they were disadvantaged because they were effectively excluded from this process. They argued that larger suppliers could influence outcomes indirectly, leading to decisions being made which disadvantaged smaller suppliers and led to inferior shelf positioning and less space for them. One small supplier commended the ability in some cases to provide a challenge or counter-argument to any proposed change arising from information provided by a category captain or category manager.

One trade body representing mostly larger suppliers indicated that many of its members performed some form of category management role but their outlay on this was through manpower and investment in data, rather than any direct payments to retailers. Some members saw category management as being focused on improving the performance of the category as a whole that delivered benefits to suppliers, consumers and retailers alike, while others believed that no supplier could be wholly impartial when being a category captain and benefits accrued to the company performing the role simply as a result of its holding the

position of category captain or manager and the close working relationships that allowed to develop. One trade body referred to EU competition law and previous Competition Commission reports which did not consider that the way category management was practised was anti-competitive.

Retailers generally defined category captaincy as a situation in which one supplier was chosen to lead on providing category advice directly to the retailer; with category management typically being used to describe a more collaborative approach, involving more than one supplier in providing periodic or ad hoc advice to the retailer when called upon to do so. Most but not all said the terms were often used interchangeably. Most retailers said they did not use category captaincy with some indicating that a lead supplier exerting control or influence in favour of their own products was not in consumer interests. Nevertheless, some retailers engaged suppliers in a number of ways to provide category advice, insights or additional market data where the retailer felt it needed this to make good business decisions. Retailers emphasised that their in-house teams ultimately led on and made decisions in relation to how the category was managed: no supplier could overly influence or determine this.

Of those retailers making some use of category captaincy or category management, none explicitly stated they accepted payments from suppliers for them to act in these roles, although one retailer said supplier involvement in category captaincy 'rarely relied on financial investment' and another that it may come with an associated payment as part of a wider set of terms. Some retailers indicated that they received some other forms of benefit, ranging from staff from suppliers being implanted in their teams, to market reports and data. Some retailers indicated that they had a clear policy on ensuring that those acting as category captains acted objectively.

Payments to participate in range reviews

No supplier indicated that it paid to participate in range reviews and none thought it would be fair to have to pay. There was an example given of products that were due to be de-listed following a range review where the large supplier stated it had paid a lump sum to get them re-instated. Suppliers might also renegotiate terms of supply or cost prices once they were aware of a range review occurring. However, neither of these possibilities appeared to raise issues under paragraph 12 of the Code.

Some concern was raised of a risk that those participating in range reviews could exert more influence than others, with larger suppliers more able to devote time and resources to be able to participate.

One trade body felt that range reviews were structured, regular activities by retailers which were often set out in joint business plans. It was not aware of any payments being made to participate. However, it was reported that payment discussions on range reviews might be focused on marketing support and investment in remaining product lines.

Responses from retailers indicated that they did not ask for payments from suppliers to participate in range reviews, although one highlighted that range review participation was

discussed as part of agreeing joint business plans. Most retailers involved suppliers in range reviews but emphasised that they set the principles of what the range review sought to achieve and their in-house teams retained control over the outcome of any range review. Those retailers that involved suppliers in range reviews did not think that suppliers could influence outcomes, explaining that supplier views were taken into account but would not secure any outcome or decision. Some retailers recognised that suppliers sometimes changed their terms as part of a range review but the retailer did not consider this in the same way as any payment. Most retailers did not think that suppliers paying for positioning was in the best interest of consumers.

Current market practice and GCA conclusions

Overview

The GCA was grateful for the responses received.

This consultation was launched following the report of the investigation into Tesco plc in which the GCA set out the intention to consult with the sector about what practices exist, how widespread they are, and what effect they have on suppliers and consumer choice in store, so that the GCA could determine whether or not they are consistent with paragraph 12 of the Code.

The GCA has considered the information received through the consultation process and in drawing together these conclusions has paid particular attention to the investigation and the two Competition Commission market investigations in 2000 and 2008.

A range of information and views were provided although the responses received indicated a clear downward trend over the past three years in the incidence of payments for better positioning and increased space. This is clearly continuing. Accordingly, the GCA has concluded that the practices disclosed by all respondents to the consultation indicated a high level of compliance with paragraph 12 of the Code.

The GCA has concluded that while some limited information or anecdotal evidence was provided of practices which might be in breach of the Code, there was not enough information provided to support the need for interpretative guidance or other regulatory intervention. It appears that there has been a change in the approach taken by the regulated retailers in the period since the appointment of the GCA in 2013, to bring practices into line with the requirements of paragraph 12 of the Code. This is consistent with the general improvement in compliance with the Code reported in the GCA annual grocery sector survey and reinforces the benefits of the collaborative regulatory approach pioneered by the GCA. By highlighting potential concerns about this issue in the report of the investigation into Tesco plc, it appears that the GCA has successfully incentivised all regulated retailers to consider further their practices in this area and to ensure they are Code-compliant.

This consultation response accordingly serves a number of purposes:

- It indicates at a high level what practices exist in relation to:
 - indirect requirements by retailers either when a retailer requests or a supplier offers money for better positioning or as part of a wider commercial negotiation;
 - payments for category captaincy or category management; and
 - payments to participate in range reviews.

- It gives a strong indication as to what is and is not likely to be Code-compliant behaviour, although the conclusions are not exhaustive; and
- It builds on and effectively brings up to date the market investigations undertaken by the Competition Commission in 2000 and 2008, taking into account current views from the groceries sector on the proper scope of paragraph 12 of the Code.

The conclusions reached by the GCA as a result of this consultation are set out in the Executive summary.

Indirect requirements by retailers either when a retailer requests or a supplier offers money for better positioning or as part of a wider commercial negotiation

The Code does not permit direct or indirect requirements from retailers to suppliers for payments for better positioning or increased shelf space unless in relation to a promotion.

Retailers have made clear to the GCA that they do not require suppliers to provide payments to secure better positioning or increased shelf space. Some indicated that they accepted payments for better positioning or increased shelf space but considered that this was part of normal commercial negotiations. The views of suppliers have largely confirmed this.

It is apparent that suppliers sometimes make payments or offer ‘investment’ to retailers and better positioning or increased shelf space might be discussed in the context of this as part of normal commercial negotiations or joint business planning. The GCA understands that suppliers want to be able to offer investment and in that context, they want the ability to use levers such as achieving increased space and better positioning. However it is recognised that the ability of suppliers to do this varies by size and smaller suppliers are generally less able to offer investment and have a perception that they are disadvantaged as a result. These concerns do not fall within the remit of the GCA as they are more to do with competition policy than the Code.

It is noted that not all retailers accept supplier offers of ‘investment’ or if they do, that not all are willing to discuss better positioning or increased space for the supplier making the investment offer.

It is the GCA’s view that any retailer demand for payment to be made other than in accordance with the Supply Agreement that results in a supplier negotiating better positioning in return is not part of normal commercial negotiations and might amount to an indirect requirement contrary to paragraph 12 of the Code.

Discussions about ‘investment’ and offers of payments made by suppliers to retailers that might come together with a discussion about better positioning or increased space should demonstrably be held as part of normal commercial negotiations, if they are to comply with paragraph 12 of the Code.

Payments for category captaincy and category management

Retailers have informed the GCA that they either do not use category captaincy or management or if they do, this is to receive periodic or ad hoc advice to support their own teams who retain the final say on positioning and space allocation. No retailer said it asked for or accepted payments for category captaincy or management, although there may be some benefit in kind, e.g. receiving market reports, advice or additional resource from the supplier implanted in buying teams. Suppliers indicated consistently with this that they did not pay to be category captains or managers. The GCA received some responses which indicated that payments for category captaincy or management used to happen but that this practice appears to have stopped. None of the information provided was sufficient to show any clear link between any past payments made by suppliers to be category captains or managers and their gaining better positioning or increased space in return.

The GCA considers that any direct or indirect requirement from retailers to suppliers to make any payment to participate in category captaincy or category management and which results in the supplier receiving better positioning or increased space, is likely to be a breach of paragraph 12 of the Code.

Larger suppliers valued participating in category management and explained that they did this in an unbiased way and to help grow the overall category and provide benefits for consumers. Some smaller suppliers who did not have the ability or resources to participate, considered that they were disadvantaged as they did not have the chance to influence or work closely with retailers on category management. Again, these concerns of small suppliers do not directly fall within the remit of the GCA as they are more to do with competition policy than the Code.

The GCA has noted the responses from suppliers who provide category advice that they do this to help grow the category as a whole and to improve the overall offer to consumers. The GCA supports this as the principal aim of category advice provided by suppliers.

The GCA has noted that some retailers have clear policies on how they manage supplier involvement in category advice, including how they make sure that suppliers involved in this activity act objectively. Not all retailers mentioned whether they had such policies. It might be prudent for regulated retailers who engage with suppliers on category captaincy or category management to have a policy setting out how they manage supplier involvement, including consideration of whether other suppliers are able to contribute to or challenge the category advice received from the appointed category captain or category manager.

Payments to participate in range reviews

The GCA has noted that retailers do not request or require suppliers to pay to participate in range reviews. Participation in range reviews might in some circumstances be discussed as part of the normal commercial negotiations around supply. Similarly to category advice, while suppliers are often involved in range review exercises, retailers have been clear with the GCA that their teams retain control over the outcome of any range review. The GCA has

noted that suppliers have indicated that they do not pay to participate in range reviews and none thought it would be fair to have to pay.

None of the information provided indicated any link between past payments to participate in range reviews and a supplier receiving better positioning or more space. Indeed, no payments appeared to be taking place.

The GCA considers that any direct or indirect requirement from retailers to suppliers to make any payment to participate in a range review and which results in the supplier receiving better positioning or increased space, is likely to be a breach of paragraph 12 of the Code.

The GCA also recognises there were some concerns expressed that there was a risk that those participating could exert more influence than others, with larger suppliers more able to devote time and resources to be able to participate. These concerns are primarily about competition policy rather than the Code and are not within the remit of the GCA.

While several retailers indicated that they had policies setting out how they managed category advice from suppliers, none expressly indicated that it had any policy in relation to supplier participation in range reviews. This might be something for retailers to consider in future.

Next steps

The GCA has expressed some clear conclusions arising from this consultation, both as to current market practice and related Code compliance.

The issue of payments for better positioning will continue to be monitored by the GCA to allow the regulated retailers to review this consultation response, to note the GCA's view as to current market practice and its relationship with paragraph 12 of the Code and to continue to engage with the GCA under business as usual to ensure continuing Code compliance.

Annex

Summary of respondents to the consultation:

Type of respondent	Number
Large supplier (over 250 staff)	8
Medium supplier (50 to 250 staff)	5
Smaller supplier (up to 50 staff)	2
Trade bodies	1
Retailers	10
Individuals	3
Workshops	
Workshop for suppliers (27 June 2016)	45 suppliers represented
Workshop for trade bodies (27 July 2016)	11 trade bodies represented