



Groceries Code
Adjudicator

Groceries Code Adjudicator **Annual Report and Accounts**

1 April 2018 – 31 March 2019



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1 April 2018 – 31 March 2019

Presented to Parliament pursuant to Section 14 and Paragraph 15 of Schedule 1 to the Groceries Code Adjudicator Act 2013.

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SECTION A: PERFORMANCE REPORT

OVERVIEW

This section of the annual report explains the role and purpose of the Groceries Code Adjudicator (GCA). The Performance Analysis sets out how the GCA has performed during the year against its statutory reporting requirements and strategic objectives, along with other key activities. The main risks to the achievement of the GCA's objectives and the explanation of the adoption of the going concern basis are set out in the Governance Statement.

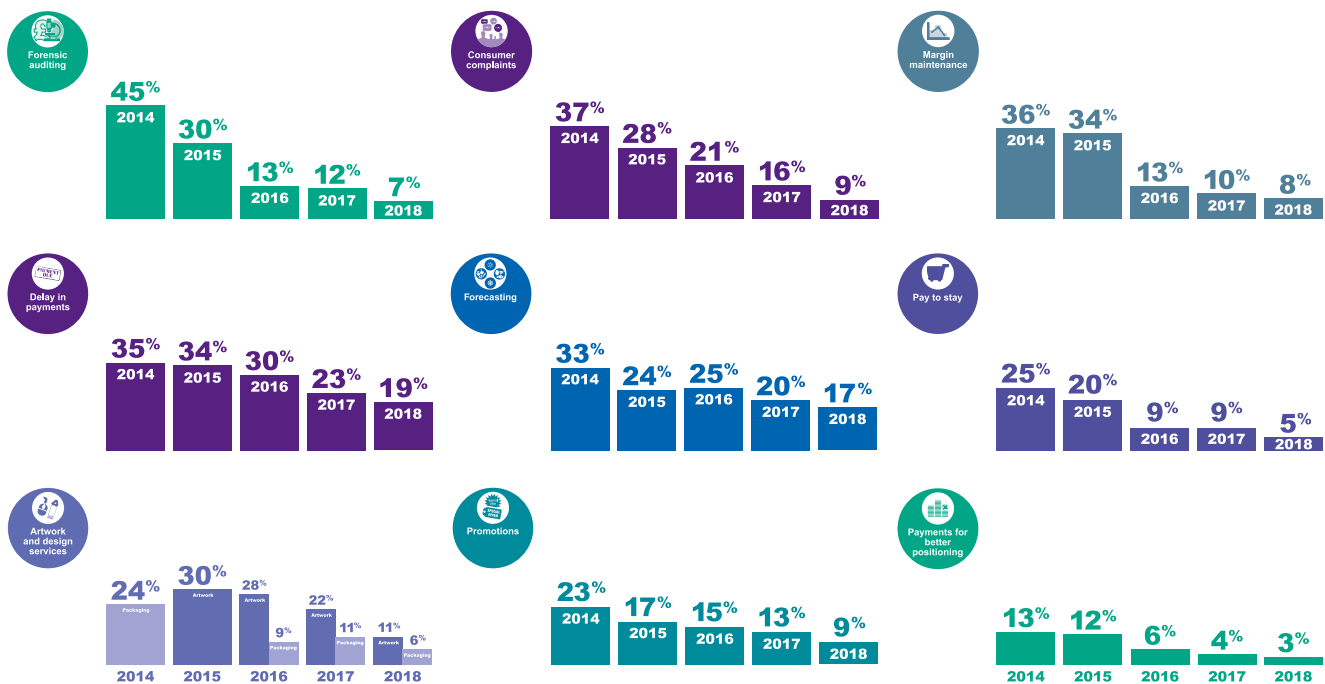
Foreword

In May 2018 I received striking evidence that my collaborative approach is reaping significant results. The annual survey demonstrated we had reached a real high point in Code compliance among all the retailers I regulate.

The survey recorded a significant drop in the proportion of suppliers reporting concerns relating to every one of the nine issues on which I have focused my activities since 2013.

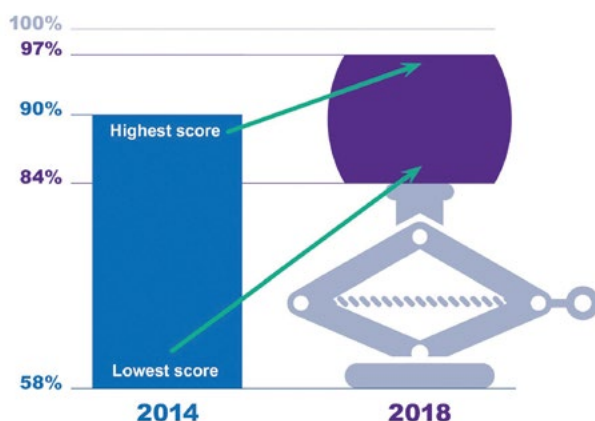


Progress against Top Issues as reported in the Groceries Code Adjudicator annual surveys 2014-2018



Overall assessment of retailers' compliance with the Code

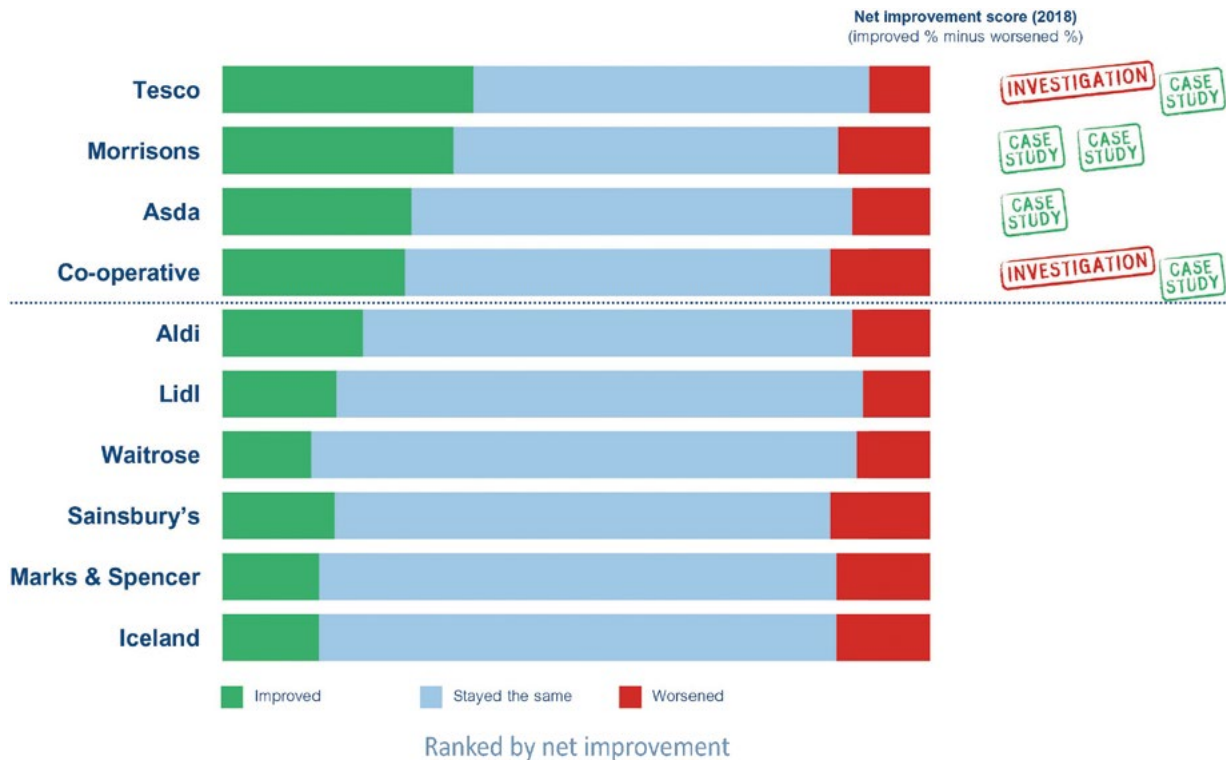
Combined individual retailer score of **consistently well** and **mostly**



The overall improvement is shown very clearly in my “jack slide”, which represents in graphic form how far we have come in the GCA’s five years of existence. Each year I ask suppliers to rate retailers’ compliance with the Code and in 2018 only two retailers were rated below the level of the very best performing retailer in 2014.

It was no coincidence that the four most improved retailers had each been subject to increased scrutiny by or enhanced engagement with me through investigations or case studies.

Change in retailer practice over the past 12 months



Top Issues

Accordingly, I announced at my conference in June that I no longer had any Top Issue to work on with the retailers and that I would continue to monitor performance of all retailers in relation to delay in payments, forecasting and promotions. The original ten designated retailers have been collating data about these issues and gave me the results in March.

The next step for me is to analyse these results. I am confident that giving the retailers time to consider and make any changes they need to their processes before doing an analysis of their compliance will have led to improvements to help them to do so. I will of course continue to work with any retailers who have struggled to meet my expectations.

I am also committed to keeping on top of issues as they arise. Suppliers need to tell me if there are any potential Code breaches they are concerned about. As additional retailers are designated I will work with them on all previous and monitored Top Issues.

Investigation into Co-operative Group Limited

My main focus throughout this year has been on the Co-op investigation which, like my investigation into Tesco plc, has taken over a year to complete. There has been great dedication from those involved. The process of collecting evidence, interviewing suppliers, following up where information is missing and then clarifying situations with Co-op was extremely time consuming.

The investigation has certainly been thorough. I have learned a lot in the process and am confident that it provides an opportunity to secure a step change in Code compliance across the sector.

I published my report in March and my findings and recommendations are set out later in this report. I want to reflect here on the issues of culture and governance.

For 18 months before the launch of the investigation I engaged intensively with Co-op. I decided to launch an investigation because I realised Co-op was unable to get to the bottom of the issues, to establish root causes and demonstrate to me that remedial action had been taken in all the relevant circumstances.

During that engagement and also during the period under investigation I found that at a senior level within Co-op there was a failure to recognise the need to take steps to ensure that it was compliant with the Code. As a result, the business was not effectively Code-proofed in relation to the requirements I investigated, which were De-listing and Variation of Supply Agreements.

Co-op accepted that at the time the focus of its business was on business recovery and it is clear that the Code was not embedded into its culture as it should have been. Co-op mistakenly assumed that its brand values and desire to work in a certain way meant that it was likely to be acting in accordance with the Code and that, if there were any issues with compliance, suppliers would have made the retailer aware of them. The clear conclusion was that Co-op needed to take a very different approach to Code compliance. I have made robust recommendations for urgent action and I will be helping Co-op to change its approach by monitoring closely how it implements those recommendations. Ultimately, I launched this investigation to help Co-op to get things right for the future.

I cannot over-emphasise the importance of governance in ensuring Code compliance and through this investigation this principle is now firmly embedded in my regulatory requirements.

My interpretation of the relevant paragraphs of the Code applies to all regulated retailers and I have already started talking to them about what this will mean for them.

Case studies

I have published no case studies this year, but there have been a number of occasions when I have raised an issue with a retailer, it has been thoroughly investigated internally and dealt with immediately.

I am also pleased to report that there have been instances when a retailer's Code Compliance Officer (CCO) contacted me directly to report that they had come across a potential Code breach and were actively putting the situation right. They told me they were keen that I heard it from them before a supplier told me.

During the year I continued to have regular meetings with CCOs and ensured that they all learned from these near-misses.

Investigations and arbitrations

I am delighted to report that two arbitrations closed during the year and I ended the year with no open arbitrations. I repeat the point I made last year that arbitrations are costly, lengthy legal processes and that I am an arbitrator not a mediator so there is a limit to the extent to which I can assist the parties to achieve a sensible commercial outcome.

Suppliers and retailers should attempt to resolve all issues through commercial discussions or mediation if necessary. I am aware of all issues that are raised with CCOs and I know that retailers work hard to resolve issues whenever they are raised by suppliers and really do try to avoid them leading to arbitration.

Retailers

During the year I held around 40 meetings with CCOs and a further 7 at CEO level. I also met all the chairs (or equivalent) of the audit committees. I can confidently report that all retailers listen to the issues that I raise and work hard to ensure their businesses are Code compliant.

The progress made over the last five years is all theirs and I take great pleasure in reporting that suppliers really notice the difference. Recently, having taken up an issue on a supplier's behalf, I commented that often the very fact that I have raised an issue makes a difference. The supplier replied: "I am convinced that is the case and thanks for all the work you have done so far to bring the retailers into line, generally making it a more level playing field and making it more pleasurable to do business with them."

In November the Competition and Markets Authority (CMA) designated Ocado Group plc (Ocado) and B&M European Value Retail SA (B&M) as additional retailers to be regulated under the Code. B&M decided to contest this designation. I have had three meetings with Ocado and am confident that the retailer understands the Code and is working through any implications for its business policies and processes. We are both looking forward to the 2019 survey results to show where work may be needed.

I see the designation of additional retailers to be a positive move towards a more level playing field for large retailers selling groceries. My team and I continue to hear about difficulties suppliers have with other retailers. I cannot take these forward, so I would urge suppliers and trade associations to let the CMA know if there are additional retailers they believe should be covered by the Code.

Suppliers

The GCA Code Confident campaign designed to build awareness of the Code and the GCA has been underway for over a year and is starting to pay dividends. More suppliers are being trained and are increasingly speaking to us about their experiences with retailers, although this comes against a backdrop of a continual decline in Code-related issues arising, as reported in my annual surveys. Of course I would like to hear more, so I continually reinforce with suppliers my statutory duty of confidentiality and my ability to help change things for the future. I am always very tactful about how I raise issues with retailers, partly to protect my sources, but also because I want the retailers to take a proper look at their businesses and to identify all areas where any similar practice may be taking place.

GCA office

The office has been at full strength all year, although the Co-op investigation has meant that we have had different activities. As a result, there have been many weeks when I have been absent from the office, interviewing suppliers and representatives of Co-op as well as reading a significant amount of material. I am grateful for my team's support and the assistance they have given to suppliers, including visiting trade shows on my behalf to raise awareness of the Code.

I am also extremely grateful to my in-house lawyer who has always ensured that my enthusiasm to fix all issues as fast as I can is tempered by what is reasonable to expect from retailers and by doing the job properly, as well as supporting me in the Co-op investigation and in my role as arbitrator.

Challenges and forward look

There will be no letting up in the coming year. As well as assessing the response on the monitored Top Issues I will be working closely with Co-op to ensure it fully implements my recommendations and I will be sharing the learnings with retailers and suppliers. During the year the Government will also conduct a second statutory review of the GCA's performance to cover the period April 2016 to March 2019 and I encourage all those with an interest in the work of the GCA to give their views.

In the Autumn the GCA is due to move office with the CMA to Canary Wharf where we are looking forward to having slightly larger premises and a dedicated meeting room. I will continue to attend an event at least once a month so I can have direct contact with suppliers and my team will attend trade fairs to ensure that even the smallest grocery supplier has heard of the Code and how the GCA can support them.



Christine Tacon

Groceries Code Adjudicator and Accounting Officer

29 May 2019

Regulatory functions



**INVESTIGATION
COMPLETED**



**NEW BEST PRACTICE
STATEMENT**



**ARBITRATIONS
RESOLVED**

Engagement



96

**SUPPLIER
ONE-TO-ONES**

5th

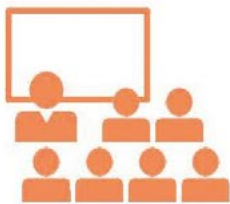


**ANNUAL
CONFERENCE**



1,792

**CODE CONFIDENT
PACKS HANDED OUT**



44

**SUPPLIER AND
TRADE ASSOCIATION
EVENTS**

19

**DIFFERENT
EVENT & MEETING
LOCATIONS
ACROSS THE
UNITED KINGDOM**



3



**NEWSLETTERS
PUBLISHED**

Top issues



52

**RETAILER
MEETINGS**



Current



Monitored



Previous

Groceries Code Adjudicator: Working for fairness in the groceries supply chain

The Groceries Code Adjudicator (GCA) was formally established on 25 June 2013 by an Act of Parliament. It was set up to ensure supermarkets treat their suppliers lawfully and fairly.

The appointment followed a 2008 Competition Commission Market Investigation into the groceries sector. The Competition Commission found that while the sector was broadly competitive, some large retailers were transferring excessive risk and unexpected costs to their direct suppliers. This could discourage suppliers from investing in quality and innovation; small businesses could fail and ultimately, there could be potential disadvantage to consumers.

Following the Commission's recommendation, the Government introduced the Groceries Supply Code of Practice (the Code) in 2010, designed to regulate the relationship between the 10 retailers at the time with UK annual groceries turnover of more than £1 billion (the regulated retailers) and their direct suppliers. The regulated retailers had some time to set up a voluntary Ombudsman; the GCA was established on a statutory basis when the self-regulatory approach did not progress.

Christine Tacon – the first Adjudicator – is responsible for monitoring and encouraging compliance with and enforcing the Code. The GCA is funded by a levy on the regulated retailers. Suppliers, trade associations and other representative bodies are encouraged to provide the GCA with information and evidence about how the regulated retailers are treating their direct suppliers. All information received is dealt with on a confidential basis and the GCA has a legal duty to preserve anonymity.

In 2016 the Government carried out a statutory review of the GCA's performance and effectiveness and at the same time called for evidence on the extension of the GCA's powers. The results of the review published in July 2017 concluded that the GCA is regarded as an 'exemplary modern regulator with an international reputation'. Following the call for evidence, Ministers decided not to extend the remit however the Competition and Markets Authority (CMA) was asked to assess whether more groceries retailers should be regulated by the GCA. On 1 November 2018 the CMA designated two additional retailers under the Groceries (Supply Chain Practices) Market Investigation Order.

GCA powers

At a supplier's request the GCA must arbitrate in disputes and may also do so following a request from a regulated retailer. Arbitration awards are binding and may include compensation.

The GCA can launch investigations. If a breach of the Code is found, the GCA can make recommendations, require regulated retailers to publish details of any breach and in the most serious cases impose a fine. The GCA power to fine a retailer up to 1% of its UK turnover came into force on 6 April 2015.

Under the Code the regulated retailers are obliged to deal fairly and lawfully with groceries suppliers across a range of supply chain practices. These include: making payments on time; no variations to supply agreements without notice; compensation payments for forecasting errors; no charges for shrinkage or wastage; restrictions on listing fees, marketing costs and delisting. This list is not exhaustive and full details are available on www.gov.uk/gca.

The Code does not cover issues such as price setting, the relationship between indirect suppliers and the regulated retailers, food safety or labelling. These issues are outside the GCA's remit.

The way the GCA works

The GCA encourages suppliers to continue to bring Code issues and evidence to its attention in order to inform decisions and actions. The GCA also gathers information from retailers, trade associations and others. The stronger the evidence base, the greater the justification for action.

As a small regulator the GCA must effectively prioritise its activities. When considering whether to launch an investigation and other activities, the GCA applies the following four prioritisation principles, which are set out in its statutory guidance:

Impact:	The greater the impact of the practice raised, the more likely it is that the GCA will take action
Strategic Importance:	Whether the proposed action would further the GCA's statutory purposes
Risks and benefits:	The likelihood of achieving an outcome that stops breaches of the Code
Resources:	A decision to take action will be based on whether the GCA is satisfied the proposed action is proportionate

The GCA must carry out its statutory functions set out in the Groceries Code Adjudicator Act 2013. In setting the direction for the GCA, the Adjudicator has developed an approach that fits the resources available and the outcomes the GCA was set up to deliver. It is a modern regulatory approach, with collaboration and business relations at its core and is delivered through a three-stage process. When Code-related issues are raised, the GCA follows the stages set out overleaf.

Stage 1: Will make retailers aware of issues reported by suppliers.

The GCA will consider whether the issue raised appears to be more than an isolated occurrence. If so, it will be raised with the regulated retailers' Code Compliance Officers (CCOs) for their own action. In some circumstances if they are judged to have significant impact and confidentiality can still be maintained, the GCA will also raise single incidence issues with CCOs.

Stage 2: Will request that the CCOs investigate the issue and report back to the GCA.

The GCA will raise the issue with the relevant CCO or all CCOs either if the issue is widespread or to protect the confidentiality of the supplier(s) experiencing the issue. CCOs will be expected to look into whether a breach has occurred in their organisation. Depending on what the CCO finds, the GCA may issue advice clarifying or interpreting the relevant provisions of the Code for the retailer and others to follow. Where a retailer or retailers accept a breach of the Code has taken place the GCA may publish a case study on the GCA website.

Stage 3: May take formal action if the practice continues.

If the GCA continues to hear of suppliers experiencing the same issue then the outcome may be to publish more formal guidance and/or launch an investigation.

Through this process the GCA ensures that issues are raised with and promptly considered by the regulated retailers and that any necessary action is agreed and taken as swiftly as possible. This is an efficient way to deal with current groceries sector practices that may not be consistent with the Code. The GCA believes that this collaborative approach has a dual benefit. It significantly reduces the cost of regulating the retailers and it delivers results more quickly.

The GCA does not act as a complaint handling body, nor can it advise on individual disputes where a supplier seeks a view on whether a regulated retailer has breached the Code. This is because the GCA may later be asked to arbitrate in the same dispute between the supplier and the regulated retailer or may later launch an investigation into the practice raised by the supplier if it becomes apparent that it is a systemic issue experienced by a number of suppliers and of significant impact. Providing a view on individual cases could compromise the GCA's objectivity. Instead, the GCA encourages suppliers to approach CCOs directly because they can deal with issues quickly and, where needed, discreetly.

The ultimate goal of the GCA is to promote a stronger, more innovative and more efficient groceries market through compliance with the Code and, as a result, to bring better value to consumers. The GCA is working with suppliers and the regulated retailers to respond to issues rapidly and relies on suppliers and others to bring evidence of non-compliance quickly to the GCA to achieve this goal.

More information is available on the GCA website: www.gov.uk/gca

Performance Analysis

Statutory reporting requirements

The GCA's key performance indicators are set out in the Groceries Code Adjudicator Act 2013 as statutory reporting requirements. There are four statutory reporting requirements on which performance is measured and the performance against these objectives is set out in the table below.

<p>Disputes referred to arbitration under the Groceries Supply Order</p> <p>The GCA accepted appointment as arbitrator in no disputes in the reporting period.</p>
<p>Investigations carried out by the GCA</p> <p>The GCA concluded the investigation into Co-operative Group Limited on 25 March 2019. This was the GCA's second investigation.</p>
<p>Cases in which the GCA has used enforcement measures</p> <p>The GCA made recommendations to Co-operative Group Limited.</p>
<p>Recommendations that the GCA has made to the Competition and Markets Authority for changes to the Code</p> <p>The GCA has made no recommendations to the Competition and Markets Authority for any change to the Code.</p>

Strategic Objectives

In addition to the statutory reporting requirements, the GCA also monitors its performance against four strategic objectives:

- Objective 1:** Promoting the work of the GCA
- Objective 2:** Providing advice and guidance
- Objective 3:** Acting on supplier issues and information
- Objective 4:** Improving the culture of Code compliance

The GCA considers that these objectives remain fit for purpose.

Objective 1 Promoting the work of the GCA

The GCA built on the success of the Code Confident campaign launched the previous year, which encourages suppliers to 'Know the Code; Get Trained; and Speak Up'. The Code Confident logo is carried on many GCA publications and on a pack aimed at suppliers containing information about the Code and the role of the Adjudicator. Nearly 2,000 of these packs were distributed this year, helping to raise awareness among suppliers.

The Adjudicator and her team have attended over 40 trade and supplier events across the UK. These included trade shows, conferences and trade association meetings and covered a range of activity including presentations from the GCA, participation in supplier workshops and networking. The GCA exhibited at three trade shows and visited many more to meet suppliers, explain the role of the GCA and hear about Code-related issues. Attending events where there are large numbers of suppliers present and walking around to speak to them has proved an excellent way of getting the GCA's Code Confidential message directly to those that need to hear it. The GCA and her team have held over 90 one-to-one meetings with suppliers, hearing directly from them about their experiences of working with retailers. The GCA also attended an event in Denmark for Nordic groceries suppliers to the UK and elsewhere.

The GCA website, YouTube channel and regular newsletter continue to play an essential role in raising awareness and keeping suppliers up to date. There is a steady stream of people viewing the information and watching relevant GCA videos. The newsletter goes to over 1,550 subscribers.

The fifth annual survey was open during March and April 2018. This was promoted through advertising in *The Grocer* and work done by retailers and trade associations to encourage their suppliers and members to complete it. The GCA also raised awareness directly at trade shows, including hosting a stand at Food and Drink Expo where suppliers could complete the survey. There was a strong response rate which gave the GCA important information about what retailer practices were still of concern to suppliers. The top three issues suppliers said they had experienced over the past 12 months remained the same: delay in payments; no compensation for forecasting errors or not preparing forecasts with due care; and not meeting duties in relation to De-listing. However, the percentages of suppliers that had experienced these issues had fallen from the previous year.

Over 250 people attended the GCA annual conference held at Church House, Westminster in June 2018. This followed the successful format of a review of the year and forward look from the GCA as well as presentation of the results of the annual survey by YouGov. There was a keynote address by the then Minister of State, Andrew Griffiths MP, and a presentation by Nick Downing from the IGD. After the main conference the GCA and her team met 20 suppliers in one-to-one meetings.

There are over a dozen organisations that provide training on the Code. They play an important role in educating suppliers and raising awareness of the Code. Some of the training providers update the GCA on what Code-related issues they are hearing about from suppliers and report the number of delegates they have trained: two have trained over 250 delegates in 2018. Code Compliance Officers (CCOs) also play an essential role in raising awareness of the Code and the GCA among each retailer's suppliers.

As a result of these awareness-raising activities there has been a continual flow of supplier feedback directly reported to the GCA. This not only demonstrates the value of the GCA's initiatives in this area but shows that this work is improving supplier awareness and knowledge. The increase in information reported helps the GCA to understand the issues suppliers are experiencing and priority to raise with retailers, as well as enabling conversations with suppliers to alert them to relevant GCA published material on how they can help to put matters right. The GCA is grateful to all those that provide information about their experience of working with retailers and encourages more suppliers to get trained in the Code and speak up to the CCOs and the GCA office. The number of suppliers raising issues with the GCA either at one-to-one meetings or through calls and e-mails remained at a good level. This continues to show the high degree of confidence suppliers have in reporting issues to the GCA.

Objective 2 Providing advice and guidance

The GCA has continued to produce advice and guidance that responds to concerns raised by suppliers and retailers and to clarify the Code.

Annual Compliance Reports

Advice was provided to retailers about how to improve their annual compliance reports, in particular encouraging them to report more comprehensively in their published annual reports and accounts.

Progressing Top Issues

The GCA published a revised best practice statement on forecasting which included the issue of promotions. In this it was reiterated that retailers should consider what improvements they could make to the transparency of their communications with suppliers about forecasting, to allow suppliers to meet orders and to anticipate and calculate the full costs of supply. While reiterating the ways this may be achieved the GCA also added that retailers should consider explaining to suppliers how to get compensation for inaccurate forecasting, when it might be due and who to talk to; should consider the extent to which retailers might offer compensation for inaccurate forecasting; and understand that the due care test is unlikely to be capable of being met by a retailer that provided no way for a supplier to contribute to the forecasting process, whether collaboratively in reaching agreed volumes to be ordered or by ensuring suppliers can raise questions and queries if a forecast seems to them to be inaccurate or to have resulted in an excessive order.

There were additional points made in relation to promotions including that retailers should ensure that buying-in periods for promotions were reasonable, in particular not exceeding the shelf life of the products, and ensuring that timelines are adhered to and commitments to promotions are delivered in store.

Other activity is recorded in the *Top Issues* section of this annual report.

Objective 3 Acting on supplier issues and information

Raising Issues with CCOs

The GCA continued to have regular meetings with CCOs throughout the year. These are used to raise issues across all regulated retailers as well as with individual retailers. In some circumstances the GCA will raise issues outside the usual meeting round, for example where there is some urgency for the CCO to look into them or the GCA decides to intensify the collaborative approach with a particular retailer.

Issues raised with the GCA by suppliers either directly or through the annual survey are crucial to identifying the work to be done with retailers. They have helped the GCA to determine where to intensify the collaborative approach with retailers, leading to the publication of case studies or the launch of an investigation, as well as helping to inform the GCA's decision about which issues to prioritise with all regulated retailers and how supplier concerns can best be addressed by retailer action. Where issues have been escalated with a retailer and have been addressed effectively, suppliers notice a difference and retailers often make systems or process improvements which benefit their businesses and the wider supply base.

The GCA also published a list of supplier helplines set up to enable suppliers to have finance-to-finance discussions with retailers without the need to involve buyers in resolving payment and invoicing issues and to help retailers identify the root causes of issues suppliers are facing and to put them right. This was a consequence for all retailers of a recommendation made in the report of the investigation into Tesco plc, published in 2016, which established a benchmark for the standard of Code compliance expected of all retailers.

Monitoring progress on supplier issues

Individual reports from suppliers as well as the annual survey contribute significantly to the work of the GCA and together help to identify the areas to focus on. Where an issue has been tackled with retailers the GCA monitors this and continues to publish impact charts from the annual survey which demonstrate the progress made. Where suppliers raise issues and the GCA focuses on tackling them, suppliers really do notice a change in retailer behaviour. These impact charts are set out in the *Top Issues* section of this annual report.

Objective 4 Improving the culture of Code compliance

The GCA continues to emphasise the need for cultural and behavioural change in retailers and considers that progress in this area had been made. This is regularly raised in conversations with chairs of retailer audit committees as well as on visits to retailer headquarters. Suppliers report that the behaviour of retailers has changed significantly since the GCA was appointed. Improving the culture of Code Compliance has been a feature of two GCA Code clarification case studies as well as the recently published report of the investigation into Co-operative Group Limited. The recommendations, which cover issues such as governance, audit, training, systems and processes will be implemented by Co-op and monitored by the GCA. They also reflect the standard of Code Compliance set by the report which all regulated retailers must meet.

Annual Survey 2018

In 2018 the GCA maintained its practice of commissioning YouGov to carry out a survey of the groceries sector. This fifth GCA survey was designed to build on the GCA's understanding of current supplier concerns in the sector and measure progress towards Code compliance. These issues included how far retailer behaviour had improved in the year and more detailed information about supplier views on retailer compliance with the Code. There was also a new question for 2018 which asked whether retailers conducted trading relationships with suppliers fairly, in good faith and without duress, reflecting some suppliers' perceptions of this as a measure of the quality of their supply relationships overall.

YouGov presented the results to the GCA conference in June 2018.

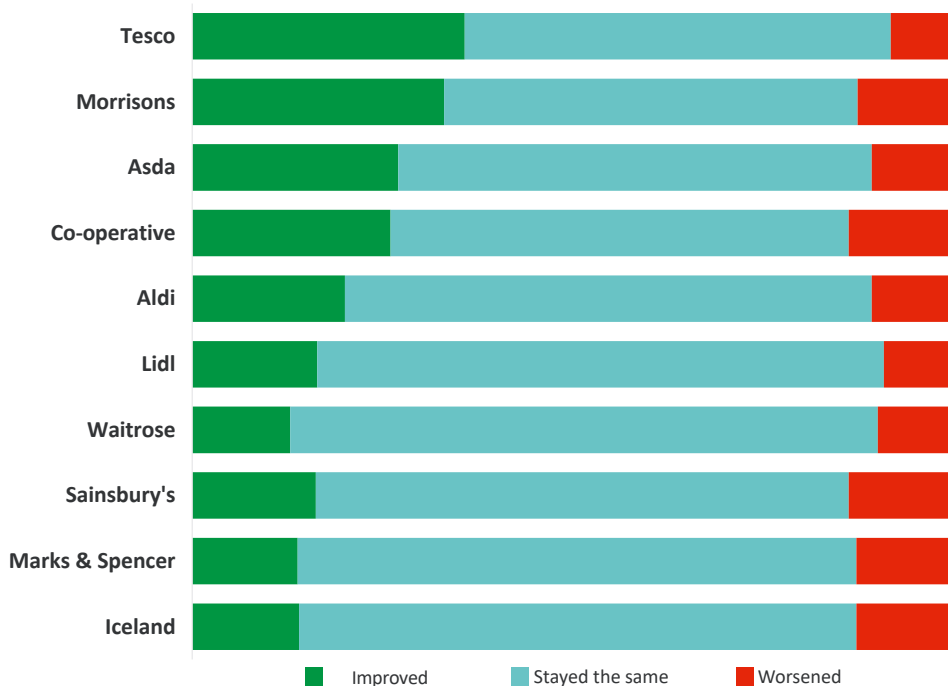
Participants

The retailers again supported the GCA survey by sending links to their direct suppliers, including those based overseas. Participation remained high, albeit with responses slightly down on the record number received in 2017. A total of 1,045 responses were received, including 911 from direct suppliers, 133 from indirect suppliers and 28 trade associations.

The number of suppliers stating that they had experienced issues that could be breaches of the Code again fell in 2018 with 43% reporting issues, down from 56% in 2017.

All retailers were reported as having improved over the last year with Tesco plc the most improved (Table 1) for the third survey running. Wm Morrison Supermarkets plc, Asda Stores Ltd and Co-operative Group Limited also showed good progress. Each of these retailers had clearly learned from the enhanced engagement with the GCA as a result of investigations or activity leading to case studies.

Table 1: Changes in retailer practice over the last year

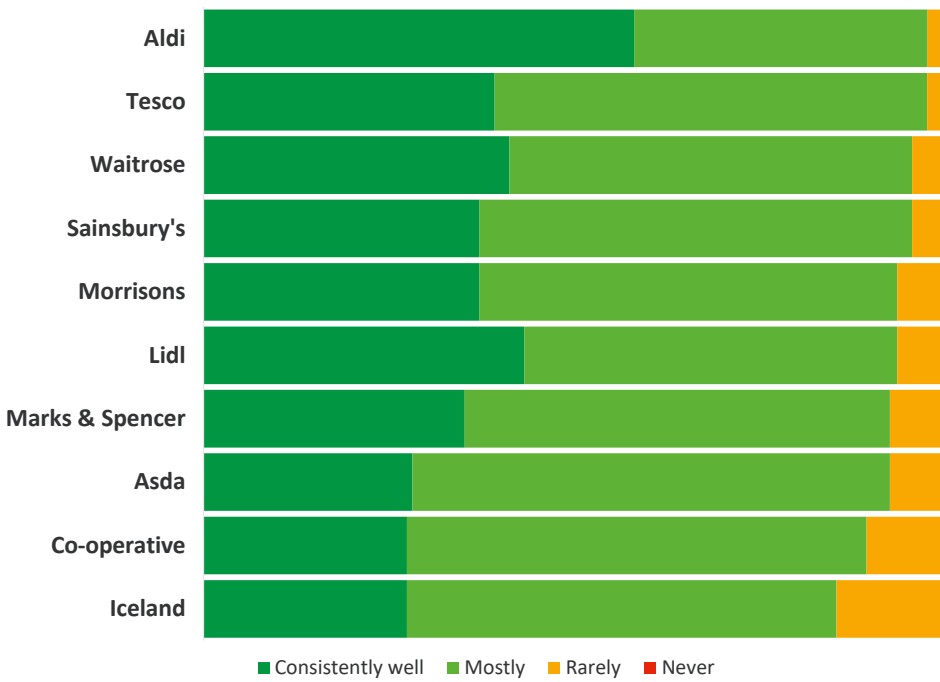


Views by suppliers on the overall assessment of compliance with the Code

Aldi Stores Ltd was again considered by direct suppliers to be the retailer that complied most with the Code, placing the retailer for the fifth consecutive year top of the 2018 survey (Table 2).

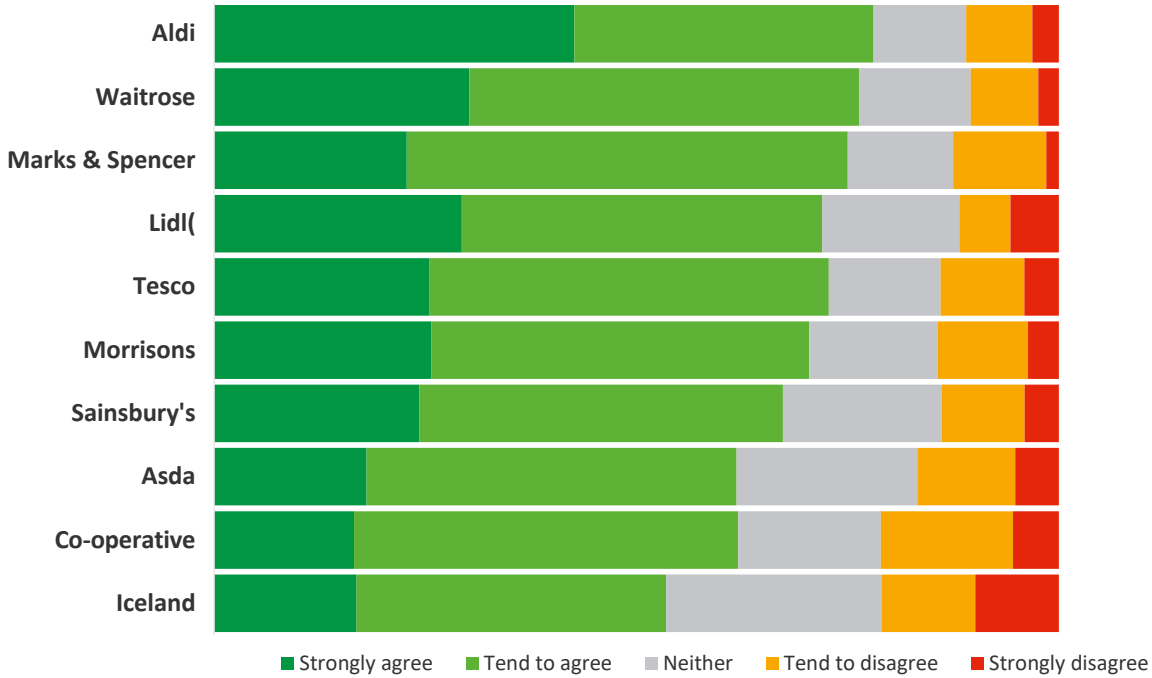
From the survey results, Iceland Foods Limited (Iceland) was assessed by its suppliers as overall being the retailer least likely to comply with the Code. This was the same as 2017 but in both years suppliers reported low levels of specific Code issues. The GCA worked with Iceland to understand why suppliers felt at risk when negotiating with the retailer.

Table 2: Overall assessment of compliance with the Code



In 2018, partly as a result of this work with Iceland, a new question was introduced to the survey. This question asked whether suppliers believed each of the retailers conducted its trading relationships fairly, in good faith and without duress. The results are set out in Table 3.

Table 3: Supplier perception as to whether retailers conduct trading relationships with suppliers fairly, in good faith and without duress



Using data to drive better behaviour

As well as measuring overall performance the YouGov survey focused on specific Code-related areas for each retailer. Table 4 shows some of the results. The retailers are anonymised and presented in no particular order. The survey used a traffic light system to show where retailers were performing better than average (green) and below average (red).

It offered the GCA a valuable tool to encourage retailers to improve performance in particular areas, even if their overall rating was good. It also provided valuable insight for the CCOs.

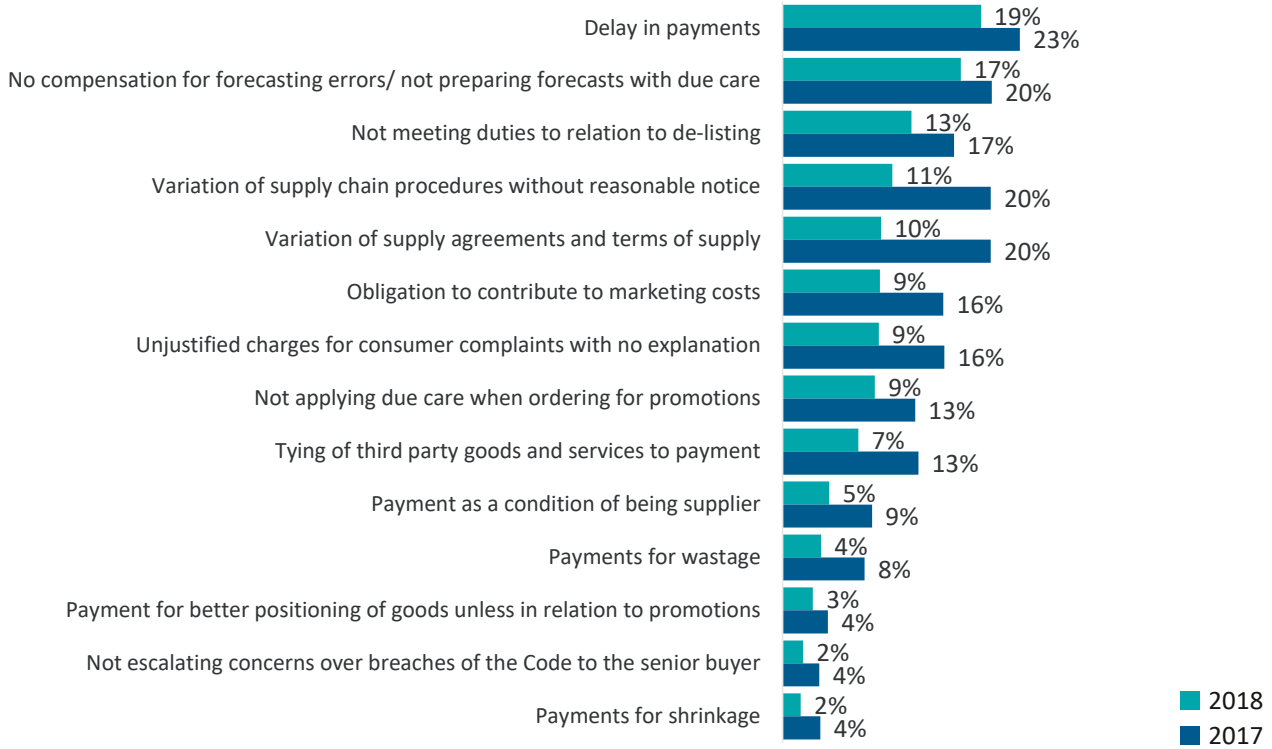
Table 4: Code-related issues by retailer as reported by suppliers

	Retailer 1	Retailer 2	Retailer 3	Retailer 4	Retailer 5	Retailer 6	Retailer 7	Retailer 8	Retailer 9	Retailer 10
Inadequate processes and procedures in place to enable invoice discrepancies to be resolved promptly	Green	Red	Green	Yellow	Red	Yellow	Green	Yellow	Red	Yellow
Inadequate processes and procedures in place to enable invoice discrepancies to be resolved promptly	Green	Yellow	Yellow	Green	Red	Red	Yellow	Green	Green	Red
Deli-sting, including significant reduction in volume without giving reasonable notice	Green	Red	Yellow	Yellow	Yellow	Yellow	Yellow	Green	Yellow	Yellow
Not allowing time (e.g. 30 days) to challenge proposed invoice deductions, or deducting even if challenged	Green	Red	Green	Green	Red	Green	Green	Red	Red	Yellow
Data input errors (e.g. pricing) not resolved promptly (e.g. 7 days)	Green	Red	Green	Green	Red	Green	Yellow	Red	Red	Yellow
Undisputed invoices not paid according to agreed terms.	Green	Yellow	Green	Green	Green	Green	Green	Red	Red	Green
Requirement to predominantly fund the cost of a promotion	Red	Red	Green	Green	Yellow	Yellow	Red	Green	Green	Yellow
Drop and drive: delays in, or not receiving, payment when there are disagreements over deliveries	Green	Yellow	Green	Green	Red	Yellow	Green	Yellow	Yellow	Yellow
Running a promotional activity which varies from that agreed in length, positioning, distribution or type at supplier's cost	Green	Red	Green	Green	Yellow	Red	Green	Green	Green	Red
Unfair, unreasonable or unexpected charges for artwork and design	Yellow	Yellow	Red	Green	Yellow	Yellow	Green	Green	Yellow	Yellow
Retrospective changes to supply agreements	Green	Red	Yellow	Red	Red	Red	Green	Yellow	Green	Yellow
Variation of supply chain procedures without reasonable notice	Green	Yellow	Green	Red	Green	Yellow	Green	Yellow	Yellow	Green
Unilateral changes to supply agreements/terms of supply by retailers without sufficient notice	Green	Yellow	Green	Red	Yellow	Green	Green	Green	Green	Green

Code issues

The annual survey identified that the most common issues reported by suppliers were delay in payments (19%), no compensation for forecasting errors or not preparing forecasts with due care (17%), and not meeting duties in relation to de-listing (13%), as shown in Table 5. This information helped to inform the GCA's activities with retailers throughout 2018/19.

Table 5: Code issues experienced by suppliers



Training

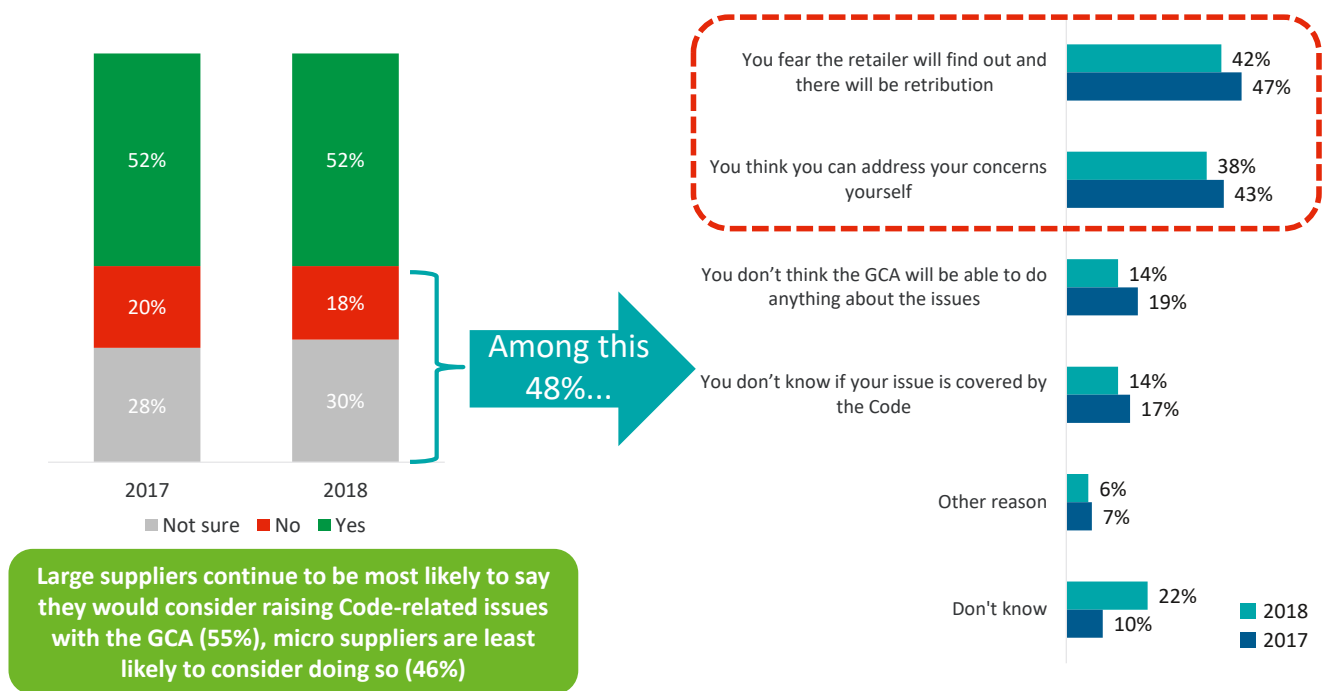
As a key element of the Code Confident Campaign, the Adjudicator continued to prioritise promoting to suppliers the importance of training so they could use the Code effectively in negotiations with retailers. This was reflected in the 2018 survey which showed a rise in the number of direct suppliers who had undertaken training, from 39% in 2017 to 49% in 2018.

Raising an issue with the GCA

The number of direct suppliers who felt they had a good or fair understanding of the Code rose slightly from 78% in 2017 to 79% in 2018, with 75% saying they had a good or fair awareness of the GCA's role and responsibilities.

The proportion of suppliers who said they would not raise an issue with the GCA or were unsure whether they would do so stayed the same, at 52%. The 48% who said they would not raise an issue with the GCA or were not sure if they would indicated the reasons for this were a fear the retailer would find out and there might be adverse consequences or that they could simply address the issues themselves (Table 6).

Table 6: Would you raise an issue with the GCA?



The Adjudicator has continued to work hard to assure suppliers that they can bring issues to the GCA, confident that their identities will be protected. There was a significant increase in the number of issues brought forward over 2017 and in the period leading up to the 2018 survey. At all public engagements the Adjudicator offers suppliers the opportunity to have one-to-one meetings, during which the duty to maintain supplier confidentiality is reiterated to each of them.

Significant Activities

The following section reproduces the core content of three GCA publications concluding significant activities in the year.

Report of the investigation into Co-operative Group Ltd

On 25 March 2019 the GCA published the report of the investigation into Co-operative Group Ltd. The Executive Summary is reproduced here. The full report is available at www.gov.uk/gca.

Executive Summary

This summary sets out in brief my findings and decisions.

Findings on De-listing without reasonable notice

Paragraph 16 of the Groceries Supply Code of Practice (the Code) states: “Prior to De-listing a Supplier, a Retailer must... provide Reasonable Notice to the Supplier of the Retailer’s decision to De-list.” The De-listing Guidance and Supplementary De-listing Guidance that I published to help Retailers to interpret paragraph 16 of the Code set out a number of factors for a Retailer to consider when deciding “significance” of a reduction in the volume of purchases being made from a Supplier and what amounts to “reasonable notice”, confirming that both would vary from case to case.

I find that Co-op applied the Code wrongly in relation to the reasonable notice requirement of paragraph 16. I find that Co-op De-listed Suppliers with no, or short, fixed notice periods that were not reasonable in the circumstances. These were applied unilaterally without due consideration of the De-listing Guidance. These De-listing decisions included but were not limited to decision issued between summer 2016 and summer 2017 as part of the Co-op Right Range Right Store programme. Further, when making volume changes, I found that Co-op did not always correctly consider significance to determine whether the De-listing requirements of the Code were engaged. This conduct was not compliant with the Code. I find that Co-op broke paragraph 16 of the Code.

Co-op applied standard notice periods on numerous occasions without any consideration as to the particular circumstances of the product or Supplier in question. This was contrary to the Code, my De-listing Guidance and my Supplementary De-listing Guidance, all of which specify that notice of De-listing should be considered on a case-by-case basis.

Co-op failed to identify what decisions might result in significant reductions in the volume of groceries bought from Suppliers and at times to deal with them in a Code-compliant way by giving reasonable notice in accordance with paragraph 16.

Scale and impact on Suppliers of De-listing without reasonable notice

The evidence I have received indicates that a significant number of Suppliers have been affected by De-listing without reasonable notice. This includes Suppliers of various sizes and across different categories of the Co-op groceries business.

For a large number of the Suppliers that I received evidence from, there was no or very little financial impact from the short notice given to them of De-listing. However for a number of Suppliers the

lack of notice of a significant reduction in orders or removal of a product resulted in them incurring significant costs which might have been avoided had they received reasonable notice. In addition, for several Suppliers, the short notice given of distribution reductions or product removals resulted in wastage of packaging and products. Other consequences of De-listing without reasonable notice included adverse effects on the efficiency of Suppliers' businesses, the resources used by Suppliers trying to obtain information from Co-op and uncertainty about the stock Suppliers would be required to provide to Co-op at any given time.

Root causes of De-listing without reasonable notice

Compliance risk management, proactively undertaken at all levels in the business

There was inadequate governance to oversee and manage compliance with the De-listing requirements of the Code. Co-op did not take adequate steps to reassure itself that it was acting in compliance with paragraph 16 of the Code. This meant that Co-op did not recognise when there were problems with Code compliance, such as buyers failing to give reasonable notice of De-listing. It also failed properly to identify and oversee De-listing decisions that were effectively being taken outside the commercial team. There was not enough focus within the organisation on compliance with the Code and it mistakenly relied on a wrongly held belief that because of its brand values, Suppliers would highlight to Co-op any concerns that they had. Where problems were identified Co-op did not appreciate the level of change required to rectify the problem or lacked the systems to implement the changes that were necessary.

Legal, compliance and audit functions working to support Code compliance

There was insufficient legal, compliance and audit support to deliver compliance with paragraph 16 of the Code and prevent De-listing without reasonable notice. This meant that the failure to give reasonable notice of De-listing and the root causes of these failures continued over a sustained period of time without effective internal challenge.

Internal systems and processes working to support Code compliance

Co-op IT systems contributed to its failure to comply with paragraph 16 of the Code. One of the main issues was the absence of a central IT system that could be accessed by all relevant Co-op employees who were dealing with Suppliers. Another particular problem was that the IT systems restricted the notice that could be given to Suppliers of distribution changes arising from the range review process. These systems did not allow consideration of what might be reasonable notice of any De-listing for a Supplier and effectively prevented Co-op from delivering on the notice periods set out in its own internal policy.

Training on paragraph 16 of the Code

The training which Co-op provided was inadequate to equip buyers to identify decisions that might result in a significant reduction in the volume of a product or products ordered from a Supplier or properly to consider on a case-by-case basis what might amount to reasonable notice of De-listing for any particular Supplier.

Individuals from both within and outside the Co-op buying team were inadequately trained to recognise and raise concerns about Code compliance. The failures in training were compounded

by the weaknesses in the Co-op policies and process documents, which did not adequately equip buyers properly to perform their roles and to assess significance and reasonable notice in compliance with the Code.

Communication between the Retailer and Suppliers facilitating Code compliance

At times there was a lack of communication by Co-op with Suppliers about decisions that might amount to De-listing. Many Suppliers were not given the opportunity to explain or discuss the impact of De-listing decisions before they were made and notice periods fixed. This meant that Co-op did not always have the information it needed to determine significance and reasonable notice on a case-by-case basis. Moreover, because at Co-op other parts of the business outside the commercial team could make decisions that affected ranging, it was not possible for Co-op to be assured that all information relevant to the assessment of significance was properly taken into account.

Findings on variation of Supply Agreements without reasonable notice

Paragraph 3 of the Code states: "If a Retailer has the right to vary a Supply Agreement unilaterally, it must give Reasonable Notice of any such variation to the Supplier." I have published three case studies on paragraph 3 of the Code which make quite clear the point of interpretation about reasonable notice. I find that Co-op unilaterally and without reasonable notice varied its Supply Agreements with Suppliers by its application of depot quality control charges and benchmarking charges. This conduct was not compliant with the Code. I find that Co-op broke paragraph 3 of the Code. This caused particular difficulties for Suppliers with fixed cost contracts, which would not have been able to amend their cost prices accordingly.

In some cases Co-op did not provide sufficiently clear or detailed information to Suppliers about depot quality control charges and benchmarking charges to enable them to form reasonable estimates of the amount and frequency of the charges. Co-op buyers were not aware of the likely amount and frequency of these charges and were accordingly unable to give notice of them. Co-op did not appear to consider what constituted reasonable notice of the application of either of the charges for Suppliers on fixed cost contracts because of a failure to understand the Code.

Scale and impact on Suppliers of variation of Supply Agreements without reasonable notice

The failure to give reasonable notice of depot quality control charges affected Suppliers of fresh produce and Suppliers of meat. The failure to give reasonable notice of benchmarking charges affected only Suppliers of own-label products.

Following my raising of the issue with Co-op and an intense period of escalation, some Suppliers received large sums as refunds for depot quality control charges and benchmarking charges which Co-op determined had been applied without reasonable notice. Suppliers from which I received evidence gave mixed views as to the significance of the amounts they had been charged by Co-op without reasonable notice; many considered the charges to be a cost of doing business or that they were not significant enough to warrant being challenged. There were other consequences of variation of Supply Agreements without reasonable notice for some Suppliers including the administrative burden of checking what they had been charged and trying to challenge

charges and operating in an uncertain environment in which they would be expected to absorb unforeseen costs.

Root causes of variation of Supply Agreements without reasonable notice

Compliance risk management, proactively undertaken at all levels in the business

Co-op failed to identify the risk to Code compliance associated with depot quality control and benchmarking charges being applied not by buyers but by other parts of the Co-op business or in the case of depot quality control charges, the independent Co-operative societies. Co-op failed to demonstrate to me its oversight of the proposed charges, when they would be applied and with what notice. There was a lack of recognition across the Co-op business that it had proactively and consistently to manage its Code compliance risk in relation to paragraph 3 of the Code.

Legal, compliance and audit functions working to support Code compliance

Co-op legal, compliance and audit functions did not appear adequately to have worked together to develop or to oversee any policy or rationale governing the circumstances in which charges would be applied.

There was not sufficient co-ordinated oversight of Co-op systems by Co-op legal, compliance and audit functions to ensure Code compliance. The co-ordinated engagement of these functions with the systems and policies relating to charges happened too late to ensure or to compensate for lack of Code compliance.

Internal systems and processes working to support Code compliance

One of the root causes of the failure to give Suppliers reasonable notice of the application of depot quality control and benchmarking charges was that Co-op unreasonably relied on its portal as the principal or only way of communicating with Suppliers about variation to Supply Agreements. Co-op informed me that the primary method it used to communicate with Suppliers about changes to its terms and conditions was updating documents contained on the portal. Co-op was not however entitled to assume that Suppliers who continued to use its portal were on notice of any change to charges.

Co-op systems also failed to support Code compliance in relation to Suppliers' challenges to charges.

Training on paragraph 3 of the Code

Co-op failed to recognise the importance of ensuring that all employees who have the ability to apply charges or otherwise to affect a Supplier's commercial arrangements with Co-op are trained on the Code. Co-op training material did not adequately deal with the issue of variation of Supply Agreements or explore on a case-by-case basis what constitutes reasonable notice under paragraph 3 of the Code.

Communication between the Retailer and Suppliers facilitating Code compliance

Buyers' lack of awareness of the charges and consequential inability to discuss them with Suppliers caused particular problems in circumstances where the portal, which Co-op used as the primary means of communicating with Suppliers, was not fit for purpose.

I note nonetheless that I did not identify any concerns with the nature and tone of communication by Co-op, either internally or with its Suppliers. Correspondence was broadly courteous and reflected the commercial nature of Supplier relationships.

Enforcement measures

The enforcement measures available to me as a result of finding that Co-op broke the Code were to make recommendations, to require information to be published and to impose financial penalties.

I consider Co-op's breach of the Code to be serious because I have found that both paragraphs 16 and 3 of the Code were broken and a significant number of Suppliers were affected by its conduct. I have decided that recommendations are a proportionate and effective measure to reduce the likelihood of repetition of non-compliance with paragraphs 16 and 3 by Co-op. I also believe that the implementation of those recommendations will provide greater certainty to Suppliers that in future, any De-listing or variation of Supply Agreements will be carried out in accordance with the Code.

My recommendations are as follows:

Recommendation 1: Co-op must have adequate governance to oversee and manage its compliance with the Code.

Recommendation 2: Co-op legal, compliance and audit functions must have sufficient co-ordinated oversight of Co-op systems to ensure Code compliance.

Recommendation 3: Co-op IT systems must support Code compliance.

Recommendation 4: Co-op must adequately train on the Code all employees who make decisions which affect a Supplier's commercial arrangements with Co-op.

Recommendation 5: Co-op must in any potential De-listing situation communicate with affected Suppliers to enable Co-op to decide what is a significant reduction in volume and reasonable notice.

I will engage with Co-op to ensure that the recommendations are implemented efficiently and effectively. I require Co-op to provide a detailed implementation plan within four weeks of the publication of this report setting out how it will comply with my recommendations. Co-op will then be required to respond to the recommendations on a quarterly basis and I will set reporting metrics for this purpose.

I do not consider the nature and seriousness of the breaches by Co-op to merit a financial penalty.

Top Issues

The GCA has a range of issues referred to it from direct and indirect suppliers, trade associations, other bodies and the media. These issues give the GCA vital information to inform current and future action.

In order to ensure the GCA meets the duty to preserve the confidentiality of those who provide information, the GCA will not publish statistical information on issues raised. A table of issues raised is included as an Appendix to this report.

Taking into account the information received about retailer practices, applying the GCA's published prioritisation principles and in keeping with the collaborative approach, the GCA identifies on an iterative basis up to five key areas to focus on where suppliers believe that the regulated retailers' practices may breach the Code. The GCA puts these Top Issues into three categories (current, monitored and previous) and keeps them under regular review, responding to changing supplier concerns and retailer activity. These issues are raised with CCOs and discussed on an ongoing basis with them at their individual meetings.

The current issues are the main focus of the GCA's attention at any one time, whether because the GCA needs to understand more about them or because they reflect significant ongoing work. Retailers report progress against these issues at meetings with the GCA.

The monitored issues are those on which the GCA has made its position clear or retailers have committed to carrying out some form of action, and the GCA wants to continue to monitor supplier feedback on the issue and what steps retailers have taken. These are reviewed a year after being categorised as monitored and thereafter they are either moved back into current issues, remain as monitored or moved into previous, depending on whether or not they remain of concern.

If an issue is classified as previous, this means it has been closed as an issue in its own right because the GCA's position or interpretation of the Code has been made clear and the Adjudicator no longer considers that ongoing monitoring or active work on the issue is merited.

Supplier feedback on all issues, remains welcome and the GCA will take it into account when considering from time to time whether there are grounds to change the status of any particular issue.

This year, delay in payments, forecasting and promotions were moved to the monitored category. Pay to stay and payments for better positioning were moved to the previous category following a review of retailer progress on those issues and because the annual survey results indicated they were no longer of concern to suppliers. There were no new current issues. The GCA continues to review supplier feedback on the issues they are experiencing.

The GCA is working with the additional designated retailers on all the Top Issues regardless of whether they are classified as monitored or previous.

The status of the Top Issues at the end of the reporting year was as follows:



Monitored Top Issues

Delay in payments

Description

The report of the investigation into Tesco plc stated clearly for the benefit of all in the sector how the GCA interpreted the practices found to have taken place in relation to delay in payments. Some of the practices that might lead to delay in payments are unilateral deductions relating to drop and drive disputes, duplicate invoices, alleged short deliveries, unknown or unagreed items; current and historic promotion fees. Further practices that might lead to delay in payments include delays in paying entire invoices where only part of an invoice is disputed, not paying in the period set out in the supply agreement, the length of time taken by the retailer to resolve an issue, and depot and retailer haulier practices.

Potential Code breach

The GCA considers the effect of unilateral deductions and not paying to terms falls under part 4 (paragraph 5) of the Code: No delay in Payments, read with part 2 (paragraph 2) of the Code: Principle of fair dealing.

GCA progress

The interpretation of the Code set out in the report of the investigation into Tesco plc is a clear statement of the GCA's view as to what is and is not Code-compliant behaviour and as such, is the regulatory standard required to be met by all regulated retailers. This makes clear that suppliers should be given at least 30 days to challenge any proposed deduction and where this is challenged, a retailer is not entitled to deduct the disputed sum from the supplier's trading account until the query is resolved. Data input errors should be resolved promptly and in particular, pricing errors should be resolved within seven days of notification by the supplier.

Delay in payments remained the number one concern highlighted by suppliers in the 2018 survey, as it was in 2017, and continued to be an issue reported directly to the GCA by suppliers. In particular, the GCA continued to hear that not all retailers had adequate systems and processes in place fully to demonstrate compliance with the GCA's interpretation of the Code on delay in payments as set out in the report of the investigation into Tesco plc. Recurring themes involving delay in payments included the persistence of unilateral deductions and the practice of holding back entire invoices while one element is queried, as well as too much time taken to resolve disputes.

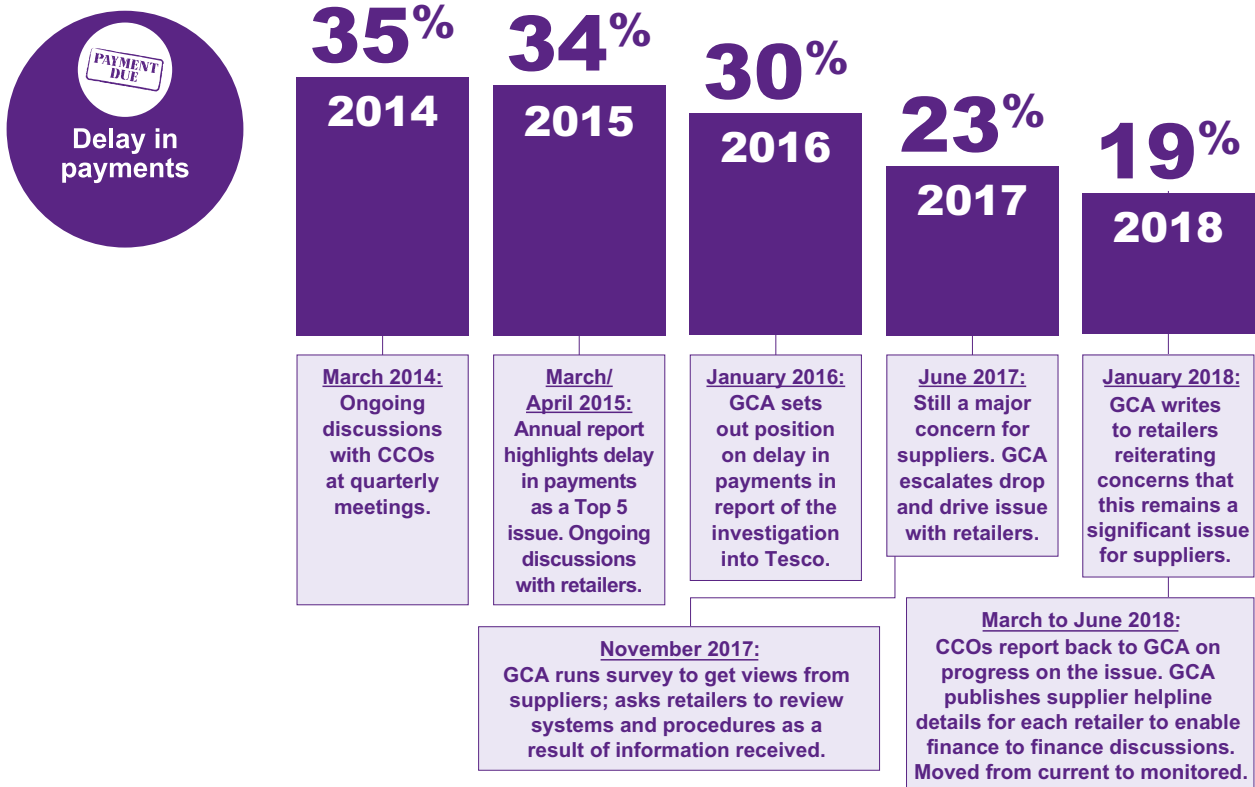
As a result of the Tesco investigation, the GCA recommended the retailer set up a single point of contact for suppliers to resolve queries and went on to suggest that an effective way to do this would be to set up a supplier helpline to handle payment disputes without involving its buying teams. To facilitate finance-to-finance conversations between retailers and suppliers the GCA asked all retailers to explain what arrangements they have in place for a supplier helpline or other means to enable disputes and queries to be handled without the involvement of commercial teams publicised these arrangements on its website.

The GCA continued to monitor retailer compliance on this issue and provided retailers with examples of practices reported by suppliers where delays in being paid could arise. In particular,

the GCA: escalated the issue of drop and drive (see separate issue under Previous Top Issues) and all retailers who engage in it explained the actions they are taking to minimise the risk of breaches of the Code arising as a result of that practice; and gathered more detailed feedback from suppliers about delay in payments in a mini survey.

Following continuing progress on this issue as reported by suppliers in the 2018 annual survey and taking into account the GCA's engagement and clarity with retailers on the issue, it was decided to move delay in payments to the monitored category.

In July 2018, the GCA wrote to the ten original designated retailers setting out how progress on this issue would be monitored and asked for retailer responses to be provided in March 2019. The GCA will use this information together with the results of the annual survey 2019 to track the impact of retailer initiatives before deciding the next steps on this issue.



*% of direct suppliers reporting in annual survey that they had experienced a delay in payment.

Forecasting

Description

Suppliers experiencing issues with forecasting reported difficulties communicating with buying teams, retailers not taking enough responsibility for forecasts after they have been set and often making last-minute changes, little or no engagement when sales are not meeting forecasts, and inadequate retailer systems which do not take into account known or past issues. Suppliers reported that the accuracy of regulated retailers' forecasts was poor and that significant variations occurred between forecasts made and orders placed, sometimes at very short notice. In some cases, suppliers had been charged for non-delivery against orders when they had only been given an annual target and were then penalised for not meeting a 99% service level on each order, regardless of its variation from average. Suppliers also reported being left with significant amounts of stock through no fault of their own and that it was unclear how to seek compensation for inaccurate forecasting.

Potential Code breach

The GCA considers that the effect of this practice falls under part 4 (paragraph 10) of the Code: Compensation for forecasting errors, read with part 2 (paragraph 2) of the Code: Principle of fair dealing.

GCA progress

In 2015 the GCA reviewed the forecasting approach of the regulated retailers to assess their compliance with the Code. In March 2016 the GCA published a statement of best practice which the retailers should work towards, intended to promote better working practices by the retailers.

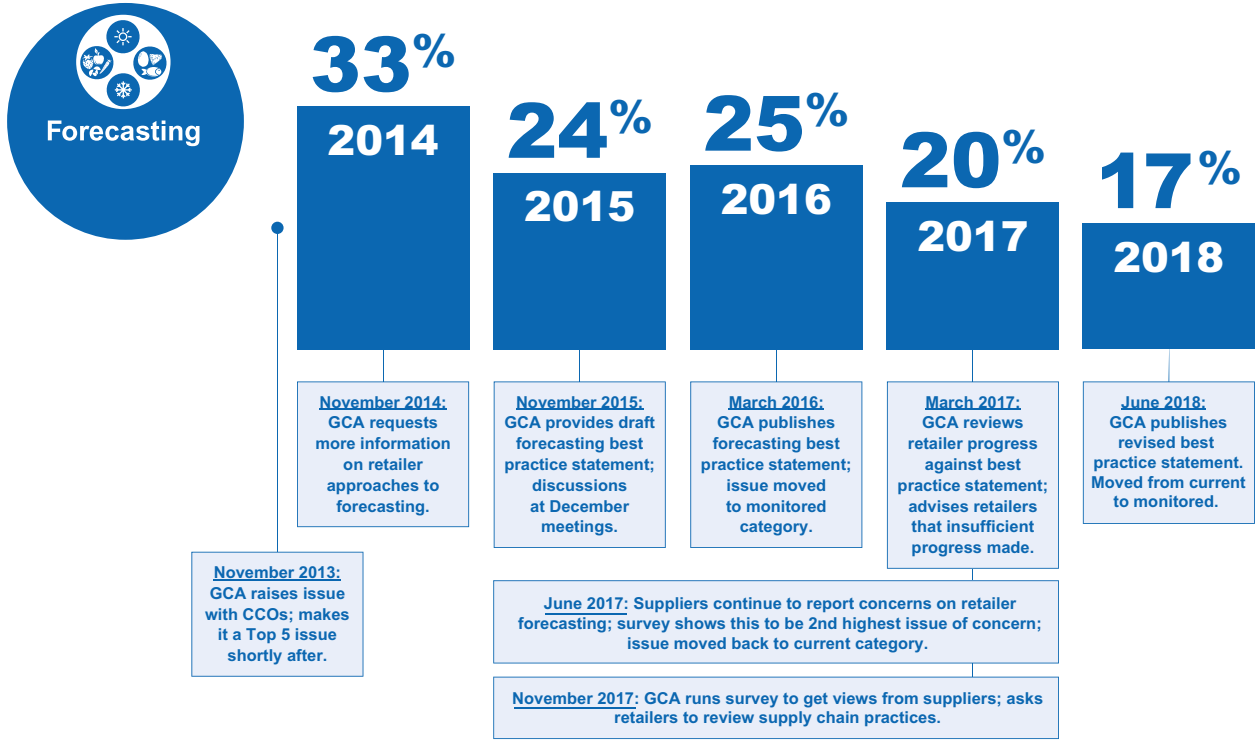
One year on, the GCA asked the retailers to provide information on their progress towards the best practice set out in the statement. Following monitoring, the GCA was unconvinced that sufficient improvements had been made. Forecasting was the second highest issue of concern to direct suppliers reported in the annual survey 2017. For these reasons the issue was moved back to the current category.

The GCA continued to receive feedback from suppliers about this issue in workshops and from training courses held by third parties. The GCA wrote to retailers in October 2017 to give feedback on their progress and launched a mini survey to learn more about supplier experiences. In December 2017 the GCA reported to retailers at a high level the outcome of the mini survey and noted some recurring themes raised by suppliers.

In January 2018 the GCA wrote to retailers again and expressed its view that there would almost always be some circumstances in which compensation was appropriate as a result of a forecasting error, so a blanket exclusion in a supply agreement would be unlikely to be Code compliant. Because suppliers might be unlikely to ask for compensation, the GCA asked retailers to consider the extent to which they might offer it. The GCA also expressed its view that the due care test, as set out in paragraph 10(1)(a) of the Code, was unlikely to be met by a retailer that provided no way for a supplier to contribute to the forecasting process, whether collaboratively in reaching agreed volumes to be ordered or by ensuring suppliers could raise questions and queries if a forecast seemed to them to be inaccurate or to have resulted in an excessive order.

Taking into account these points, the GCA published a revised statement of best practice in June 2018, which also addressed the issue of promotions (see separate Top Issue). The GCA noted that retailers are looking at their systems, processes and staff training to ensure these are all consistent with the best practice statement.

In July 2018, the GCA wrote to the original ten designated retailers setting out how progress on this issue would be monitored and asked for retailer responses to be provided in March 2019. The GCA will use this information together with the results of the annual survey 2019 to track the impact of retailer initiatives before deciding the next steps on this issue.



*% of direct suppliers reporting in annual survey that they had experienced an issue with no compensation for forecasting errors.

Promotions

Description

Suppliers reported forecasting in relation to promotions in particular was poor and that it led to overbuying at promotional prices or had the impact of suppliers predominantly funding the cost of a promotion. Suppliers were also concerned about a number of poor practices such as buying-in periods for promotions exceeding the promotional period and the shelf life of products, not adhering to timelines agreed for promotional activity, buyers not activating promotions in stores and failure to deliver on agreed promotional activity.

Potential Code breach

The GCA considers that the effect of this practice falls under part 4 (paragraph 10) of the Code: Compensation for forecasting errors, part 5 (paragraph 13) of the Code: Promotions and part 5 (paragraph 14) of the Code: Due care to be taken when ordering for Promotions, all read with part 2 (paragraph 2) of the Code: Principle of fair dealing.

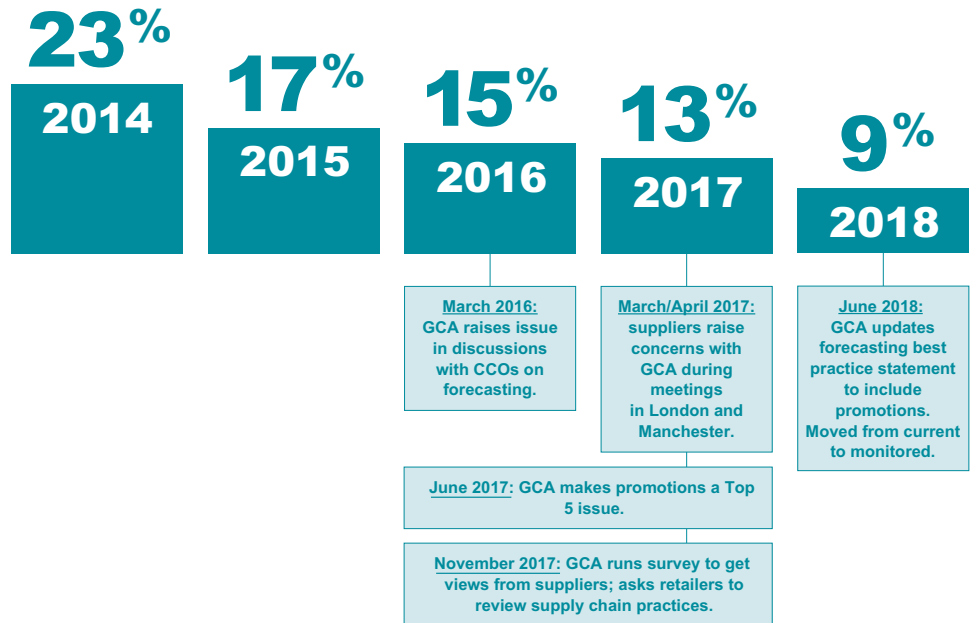
GCA progress

In 2017 the GCA put this issue in the current category to understand it more fully. Issues around promotions were closely related to forecasting, but also included concerns that buying-in periods exceeded the promotional period and the shelf life of products, and failure to deliver on commitments in store for promotions.

The GCA wrote to retailers asking for more information about their practices in relation to running promotions and sought comments from suppliers in a mini survey. Taking this into account the GCA informed retailers that there appeared to be limited evidence of deliberate over-buying for promotions and the way that most retailers ran their promotional activity helped to minimise the risk of Code breaches. However, because suppliers had raised some important issues which appeared to engage the Code, the GCA asked all retailers to report on what changes they were making to the way they managed promotional activity to ensure each was compliant with the Code and that any deductions made were consistent with the GCA's interpretation of paragraph 5 of the Code.

In June 2018 the GCA published a revised statement of best practice on forecasting, which also addressed the issue of promotions. The points made in relation to the issue of promotions largely reflected where retailers could improve their processes and were based on the practical experiences that suppliers had shared.

In July 2018, the GCA wrote to the original ten designated retailers setting out how progress on this issue would be monitored and asked for retailer responses to be provided in March 2019. The GCA will use this information together with the results of the annual survey 2019 to track the impact of retailer initiatives before deciding the next steps on this issue.



*% of direct suppliers reporting in annual survey that they had experienced an issue with not applying due care when ordering for Promotions.

Previous Top Issues

Payments for better positioning

Description

During the investigation into Tesco plc, 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. No breach was found but the GCA determined to look into the issue across all regulated retailers.

Potential Code breach

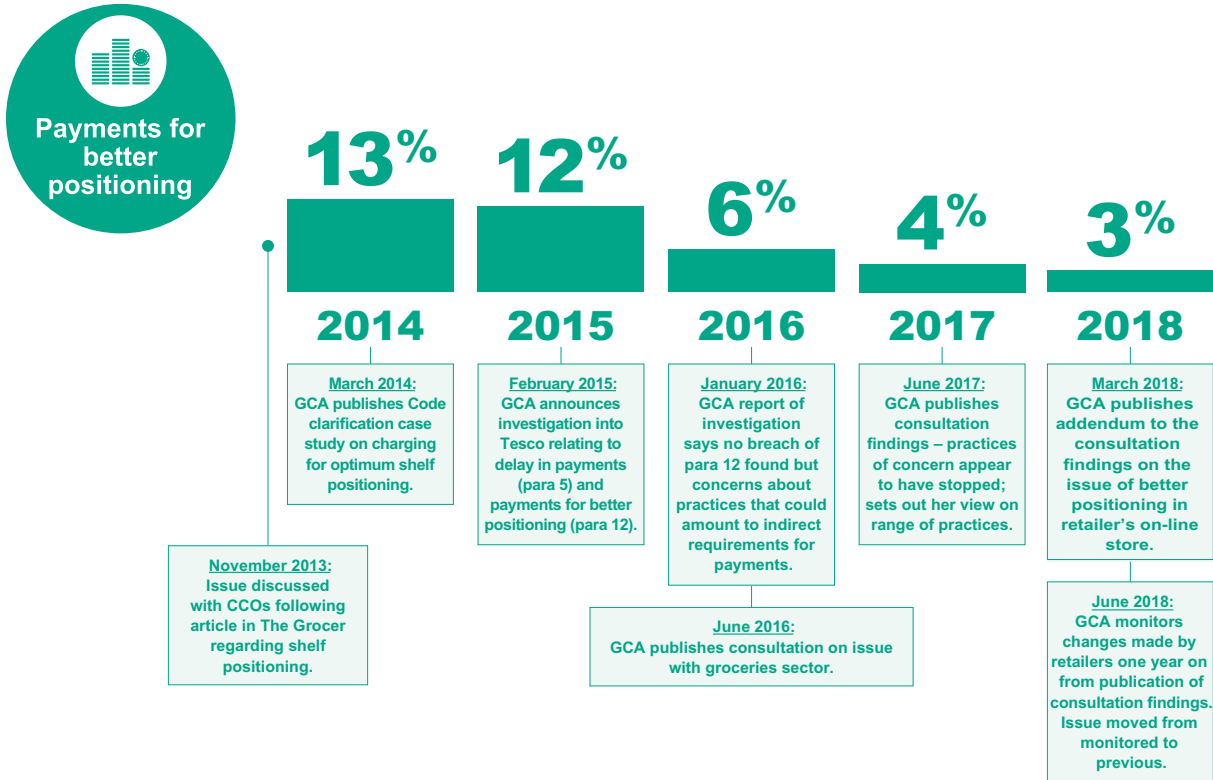
Practices in this area may fall under part 5 (paragraph 12) of the Code: No Payments for better positioning of goods unless in relation to Promotions, read with part 2 (paragraph 2) of the Code: Principle of fair dealing.

GCA progress

The GCA consulted 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 published its response in February 2017, noting that the practices that had caused concern appeared to have stopped and making clear what it considered to be Code compliant behaviour for the future.

Formal monitoring was carried out in February 2018 to evaluate the most recent supplier information and to identify whether retailers had decided to make any changes as a result of the GCA's published consultation response. At the same time, the GCA also considered the issue of better positioning of goods in relation to retailers' sales from their virtual stores, asking all retailers to provide information about their practices. In March 2018 the GCA issued an addendum to the conclusions published following the consultation on paragraph 12 of the Code. This made clear that the GCA will consider physical and virtual positioning of groceries in the same way when interpreting the Code and that retailers should consider whether their activities in relation to groceries for resale online are compliant with the Code. Retailers are expected to make clear on their websites where goods not on promotion appear more visible to customers as a result of advertising paid for by a supplier or any payment received from a supplier to secure more space or better positioning.

Following the GCA's annual survey 2018 and feedback by suppliers that this was not an issue of significant concern, the GCA moved it to the previous category.



*% of direct suppliers reporting in annual survey that they had experienced an issue related to No payments for better positioning of goods unless in relation to Promotions.

Pay to stay

Description

Suppliers raised concerns about potential pay to stay arrangements. The terminology has been used informally in the context of lump sum payments being requested or required and the supplier feeling they would experience detriment if they refused. A GCA Code clarification case study on requests for lump sum payments made by one retailer highlighted instances where payments were requested for the first half of the financial year and suppliers felt they would suffer a detriment if these payments were not made. The GCA was also informed about other payments that suppliers might make to retailers which those suppliers saw as contributions they had to make in order to do business with the retailer, such as to participate in social events or marketing initiatives, payments made immediately prior to or at the time of a tender not as part of the tender or bidding process and payments to secure exclusivity.

Potential Code breach

The GCA considers that the effect of this practice falls under part 3 (paragraph 3) of the Code: Variation of Supply Agreements and terms of supply, and part 4 (paragraph 9) of the Code: Limited circumstances for Payments as a condition of being a supplier, read with part 2 (paragraph 2) of the Code: Principle of fair dealing.

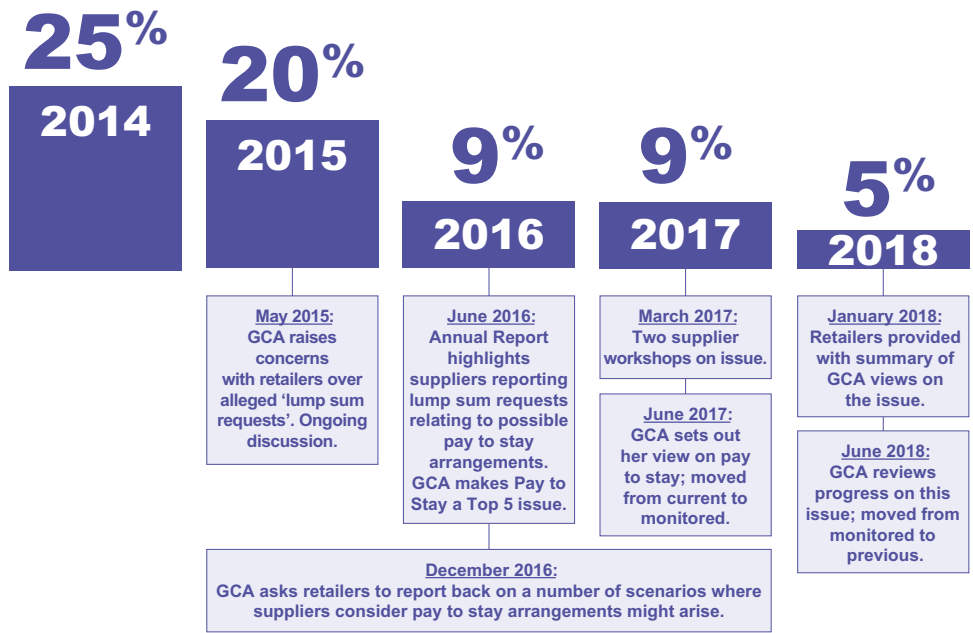
GCA progress

The GCA sought views from retailers on their practices in a range of circumstances and also from direct suppliers in one-to-one meetings and workshops arranged specifically to discuss pay to stay. Examples were raised in each context that retailers clearly saw as normal commercial negotiations but suppliers saw differently.

The GCA clarified the meaning of pay to stay and what behaviours are not considered to be Code compliant. The GCA emphasised that retailers needed carefully to consider when making any request for lump sum payment, not only what the payment was for and the basis for it in the supply agreement, but also how it would appear to the supplier and how payment was documented to provide clarity about the arrangement.

Following the GCA's annual survey 2017 and what was reported to the GCA by suppliers and retailers on the issue of pay to stay, the GCA moved it to the monitored category as it was not a major issue reported in the survey.

The GCA continued to monitor feedback from suppliers on this issue and in December 2017 informed all retailers that although the issue of pay to stay appeared to be of less concern to suppliers now, some suppliers still reported they felt pressured, for example, to agree to a promotion in order to keep their business with a retailer. The GCA effectively saw this as a pay to stay arrangement. The GCA advised retailers that accordingly, in seeking to manage their compliance risk, retailers should avoid these differences in understanding wherever possible, whether by avoiding lump sum payments altogether or by clear communication between the retailer and supplier about what any money paid is for. The GCA also urged retailers to ensure that their training was properly updated. Following further monitoring of progress on this issue again in summer 2018 the GCA moved it to the previous category.



*% of direct suppliers reporting in annual survey that they had experienced an issue related to Limited circumstances for Payments as a condition of being a Supplier.

Margin maintenance

Description

The report of the investigation into Tesco plc identified a number of practices occurring as a result of a focus on hitting budgeted or aspirational margin targets. Suppliers provided information to the GCA that other regulated retailers occasionally engaged in this practice.

Potential Code breach

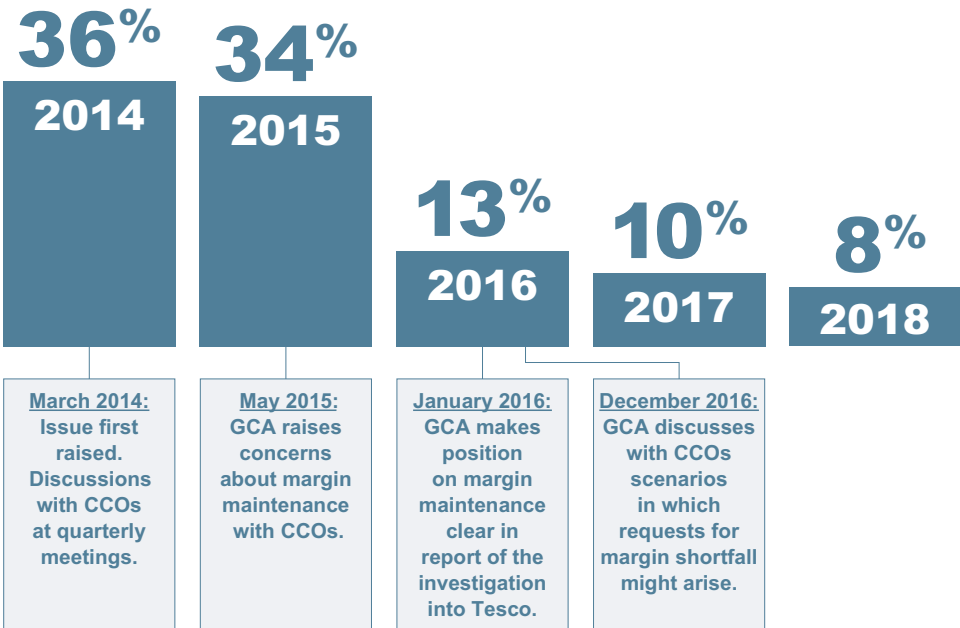
The GCA considers that the effect of this practice falls under part 3 (paragraph 3) of the Code: Variation of Supply Agreements and terms of supply, read with part 2 (paragraph 2) of the Code: Principle of fair dealing.

GCA progress

The GCA made clear in the report of the investigation into Tesco plc how the Code will be interpreted and that unilateral deductions made in order to satisfy an unachieved aspirational margin target are unreasonable. The GCA set out that requests for margin maintenance must be unambiguously supported by the supply agreement.

Since the GCA issued the report of the investigation into Tesco plc, it has been listening to suppliers on this issue. The GCA wrote to all retailers in November 2016 requesting information about practices that related to margin made on a particular product and the impact of those practices on suppliers. The responses from retailers showed that their practices were generally compliant with the Code and feedback from suppliers indicated that margin maintenance was less of an issue for them.

In 2017 the GCA decided to move this issue to the previous category. It was nonetheless made clear to retailers that as the issue had been explored and the GCA had promulgated a clear interpretation of the Code in this area, if the GCA found evidence of the practice reoccurring it may indicate the collaborative approach had been effectively exhausted, making further regulatory action likely. The annual survey 2018 continued to show that suppliers were not reporting this as an area of concern.



*% direct suppliers reporting in annual survey they have experienced requests for lump sum payments relating to retailer margin shortfall.

Drop and drive

Description

Suppliers reported that they experienced problems where there was a disparity between what suppliers said they had delivered and invoiced, and what the relevant regulated retailer said had been received. In some cases retailers appeared to make automatic deductions from invoices for alleged shortages. These deductions were difficult to challenge, depending on the haulage method and particularly where no proof of delivery had been issued.

Suppliers informed the GCA that this was a major issue for them. There appeared to be different patterns of deductions among retailers in respect of the same suppliers; and varying error rates being recorded despite suppliers using the same processes with each retailer.

Drop and drive continues to be considered as an example of a practice which can lead to delay in payments.

Potential Code breach

The GCA considers that the effect of this practice falls under part 4 (paragraph 5) of the Code: No delay in payments, read with part 2 (paragraph 2) of the Code: Principle of fair dealing.

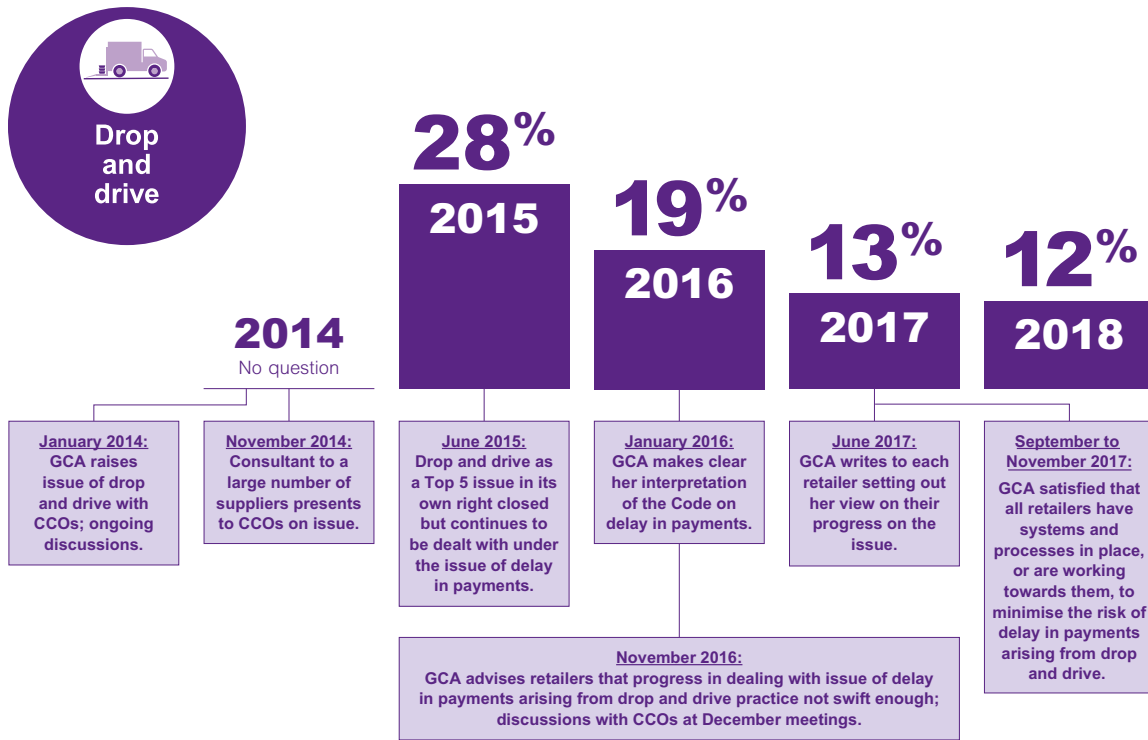
GCA progress

The GCA received more information on this issue from retailers and suppliers. While some progress had been made on this issue, it was clear that some retailers' progress in responding to supplier concerns had been too slow and the GCA accordingly escalated its concerns on drop and drive.

The GCA intensified its collaborative engagement and in May 2017 wrote to all regulated retailers setting out its view on their progress in actively managing the risk of breaches of the Code occurring under paragraph 5 (No delay in payments) arising from the practice of drop and drive.

The GCA received detailed responses from those retailers whose progress on tackling delay in payments arising from drop and drive was causing most concern. The GCA was satisfied that based on the information provided by retailers and the updated evidence received from suppliers, that all retailers that carry out drop and drive appeared to have adequate systems and processes in place to minimise the risk of delay in payments arising. For example, some retailers chose to implement good faith receiving for suppliers as a commercial solution to drop and drive issues.

Retailers have continued to make progress on the issue and many have implemented new operational and supply chain practices as a result. Supplier feedback has been that these systems are delivering benefits in terms of greater certainty about payments and better supply chain management. The GCA expects all retailers to continue to focus on this issue and continues to monitor what suppliers say about drop and drive. The 2018 annual survey continued to show that suppliers were reporting this as less of an issue, thereby indicating that they were benefitting from retailer initiatives to secure Code compliance. The Drop and drive issue is now being monitored under Delay in Payments.



*% of direct suppliers reporting in 2015 and 2016 annual survey they had experienced issues with drop and drive delivery performance.

*% of direct suppliers reporting in 2017 and 2018 annual surveys they had experienced issues with drop and drive: delays in, or not receiving, payments when disputes over deliveries.

Consumer complaints

Description

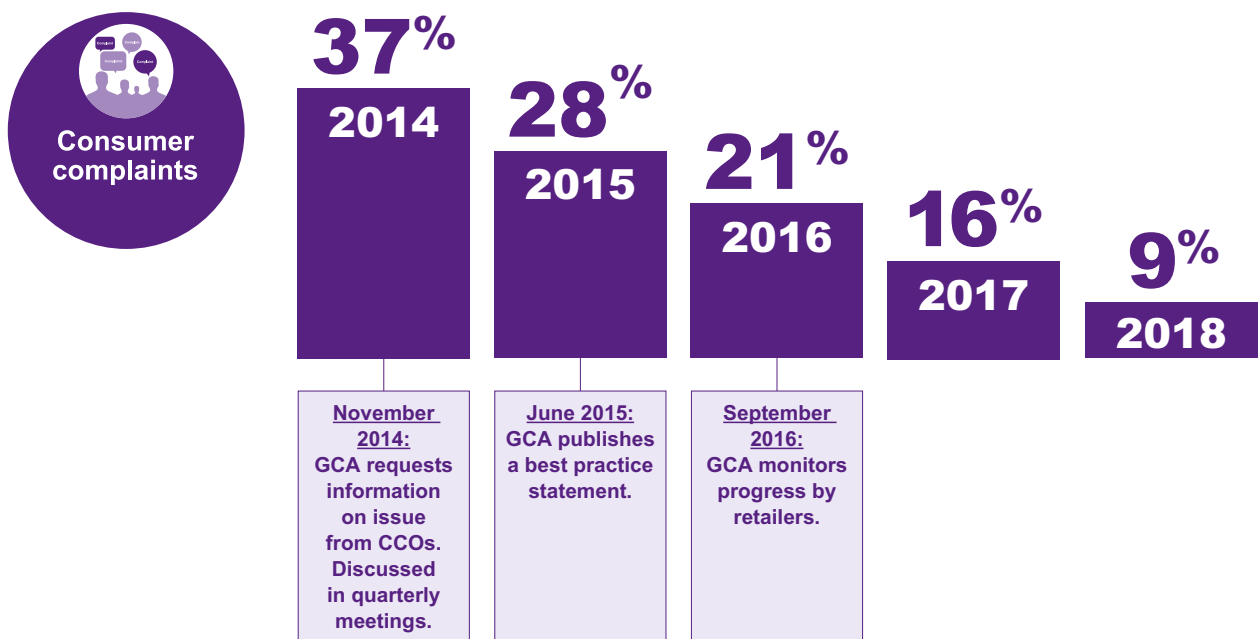
Suppliers reported that regulated retailers dealt with consumer complaints in different ways. Practices included applying fixed rates, applying variable rates depending on the seriousness of the complaint, while some made no charge. Suppliers were concerned that retailers may be overcharging for dealing with consumer complaints and deriving profit from them.

Potential Code breach

Consumer complaints fall under part 6 (paragraph 15) of the Code: No unjustified payment for consumer complaints, read with part 2 (paragraph 2) of the Code: Principle of fair dealing.

GCA progress

The GCA announced a best practice statement on consumer complaints at the 2015 conference. Since then the Adjudicator has been closely monitoring this issue and CCOs were asked to report back in September 2016 on what improvements they had made. Following this monitoring, the Adjudicator has confirmed that retailers' practices are broadly in line with the best practice statement and the issue is now categorised as previous.



*% direct suppliers reporting in annual survey that they have experienced unjustified payments for consumer complaints.

Artwork and design services

Description

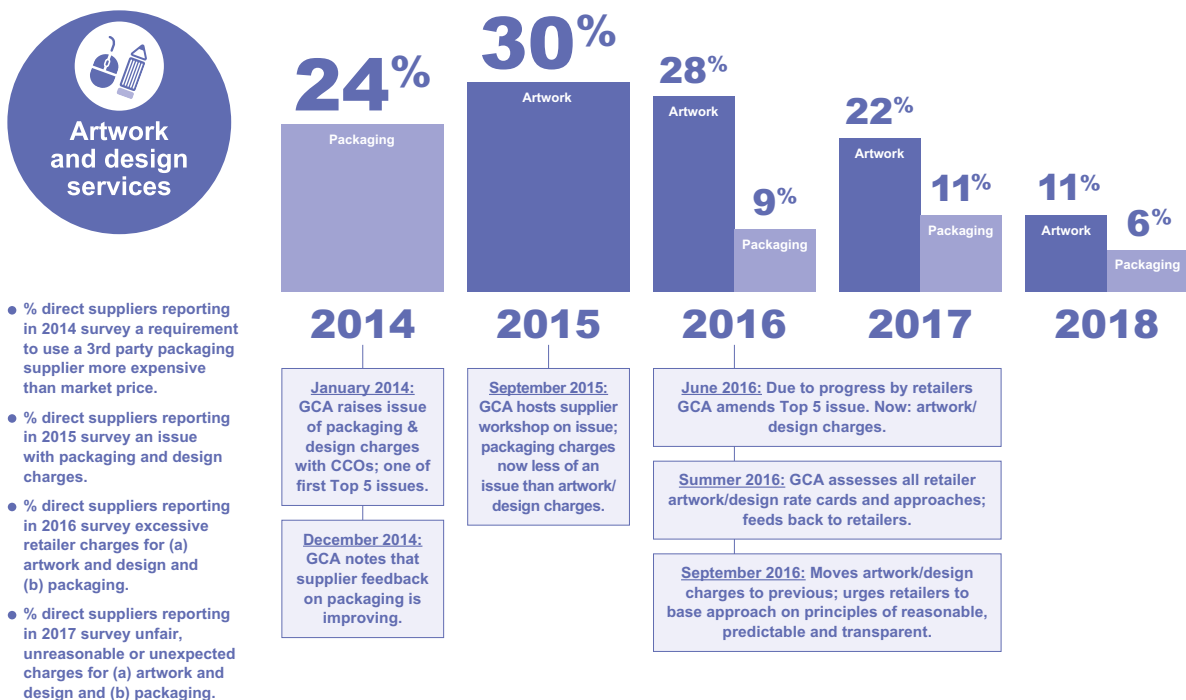
The GCA heard concerns from suppliers about the arrangements, costs and services in relation to packaging, artwork and design services. A workshop with suppliers in September 2015 on the issue delivered positive news that the position on packaging for suppliers had improved. As a result, this Top Issue was refined to focus on artwork and design services. Suppliers remained concerned that the charges made by artwork and design companies approved or required to be used by some retailers were considerably higher than those available on the open market.

Potential Code breach

The GCA considers that the effect of this practice falls under part 4 (paragraph 6) of the Code: No obligation to contribute to marketing costs; and part 4 (paragraph 11) of the Code: No tying of third-party goods and services for Payment, read with part 2 (paragraph 2) of the Code: Principle of fair dealing.

GCA progress

Following a review of the issue, the Adjudicator noted that all retailers were taking steps to bring their practices and charges closer to the principles of being reasonable, predictable and transparent for suppliers. The GCA's review did not identify any breach of the Code and the issue was moved to the previous category, although the GCA continues to monitor what suppliers say.



Forensic auditing

Description

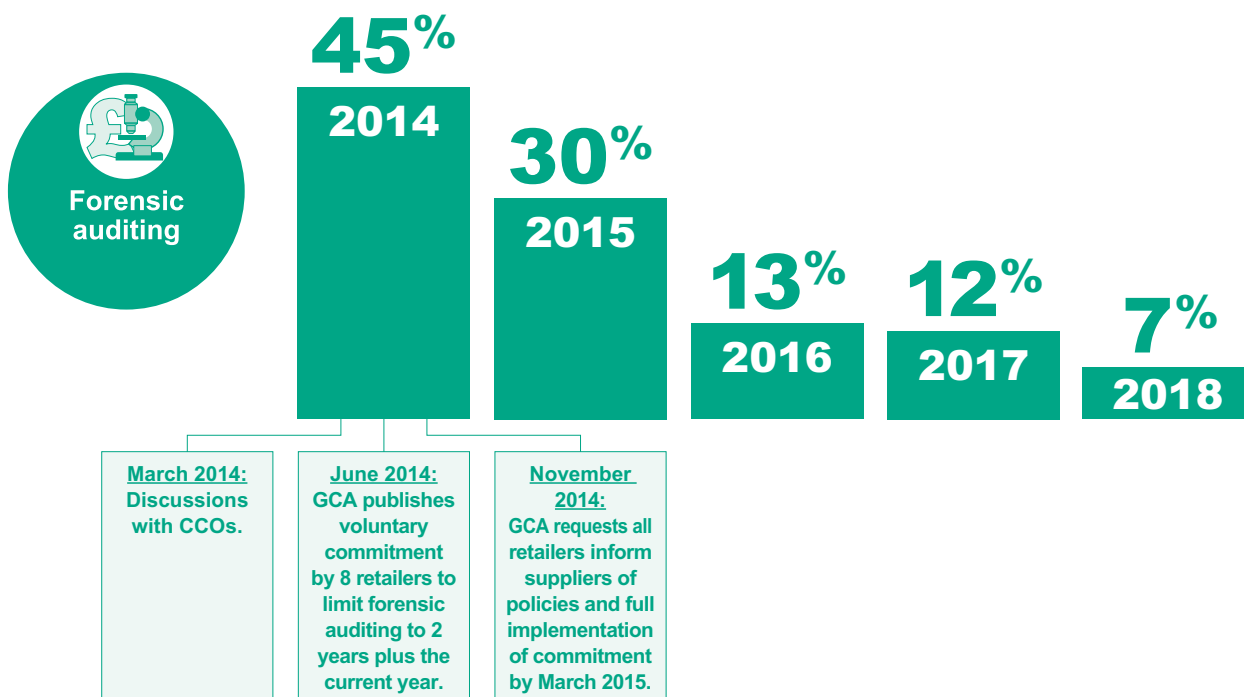
Under the Limitation Act 1980, contracting parties are able to make claims against one another going back up to six years. The GCA heard this was being used proactively by some regulated retailers to make claims against suppliers for historic invoicing errors or omissions. Suppliers were being asked for significant sums of money with the burden of proof falling on them to show that alleged discrepancies were not valid claims. It was noted that the documentary audit trail was often complex and difficult to piece together after a long period of time. Suppliers reported that deductions would be applied with little or no notice.

Potential Code breach

Although it cannot and would not interfere with parties’ statutory rights to bring contractual claims, the GCA considers that where unilateral deductions are made by regulated retailers against suppliers’ current invoices, the effect of this practice falls under part 4 (paragraph 5) of the Code: No delay in payments, read with part 2 (paragraph 2) of the Code: Principle of fair dealing.

GCA progress

Eight out of ten of the regulated retailers signed up to the GCA’s voluntary commitment to limit the auditing of suppliers’ trading accounts in search of missed claims to no more than the current and previous two financial years, on a reciprocal basis with those suppliers. This commitment was announced in June 2014 and those retailers which signed up have since set out how they would implement it and have done so on a continuing basis. The GCA continues to monitor what suppliers say, particularly in relation to the two retailers who did not sign up to the voluntary commitment.



*% direct suppliers reporting in annual survey having experienced 3rd party audits which have been abusive or excessive.

Retailer comments

Aldi Stores Limited

While Aldi would encourage Suppliers to engage directly with either the Primary or Senior Buyer in the first instance, it recognises that there may be occasions where direct contact with the Code Compliance Officer (CCO) might be preferred. Early engagement can typically help to resolve issues or problems before they develop into more serious concerns, and also serves as a useful barometer for any possible widespread or recurring issues. During the last year, such direct CCO contact resulted in Aldi's review and refinement of internal guidance on De-listing, to further improve the clarity of communication with Suppliers.

Aldi Stores Limited

Asda Stores Limited

After specific supplier feedback and in collaboration with the GCA, Asda's CCO has worked on improving how supplier expectations are managed with regard to range change decisions. Given the impact such decisions can have on its suppliers particular focus has been given to situations where Asda could potentially be De-listing certain lines or significantly reducing product volumes at a range change. It is good practice and useful for suppliers to know which lines may be at risk ahead of a range review and so the objective is to give suppliers as much forward visibility as is practical, without triggering the notice period. Asda's CCO has worked closely with the buying team to ensure suppliers are suitably engaged ahead of a range change and provisional range change timetables are now regularly shared with suppliers.

Asda Stores Limited

Co-operative Group Limited

In July 2017 the Co-op stopped charging 'drop and drive' suppliers for quantity shortages in respect of fresh deliveries into its depots. Co-op committed to make payment in full to suppliers based on their invoiced quantity until Good Faith Receipting (GFR) was rolled out. During 2018, the pilot scope for GFR focussed on deliveries into Co-op depots and not Independent Societies' depots. A supplier got in touch with the CCO about being charged for shortages. The supplier thought Co-op was contradicting the information it had shared about its new GFR process. The CCO worked with the Supplier and the relevant finance team and found that the charges were in relation to an Independent Society's orders delivered directly into that Society's depot. Whilst Independent Society depots were not included in the original GFR scope Co-op realised that this could be confusing for suppliers and had caused a misunderstanding.

So, in line with Co-op's commitment to making its processes simpler and more transparent and as a direct result of the supplier getting in touch, Co-op changed its processes. This has resulted in a better supplier experience as suppliers now only have to follow one process making it simpler to do business with the Co-op.

Co-operative Group Limited

Iceland Stores Limited

Iceland has listened to supplier feedback from the 2018 GCA annual survey and aims to continually improve its relationships with suppliers. A query raised by a small supplier led Iceland to review its payment terms and as a result it has taken the decision to fundamentally reduce payment terms for small suppliers.

Iceland is also keen to improve the awareness of its supply agreements and is in the process of building a bespoke supplier database where each supplier will have full visibility of its supply agreement. This will promote transparency of all agreements, which make up the supply agreement, for the benefit of the supplier and Iceland.

Iceland is continuing to work hard to improve supplier relationships including the provision of weekly forecasts, and is working with key suppliers to introduce more long term supply agreements. Compliance with the letter and spirit of the Code is at the forefront of Iceland's everyday business practices.

Iceland Stores Limited

Waitrose Stores Limited

Waitrose & Partners (Waitrose) has worked hard to improve its process for De-listing products so it is as fair on suppliers as possible. The focus has been ensuring suppliers are given adequate notice and that they are given the opportunity to discuss any alternatives, while still allowing new products to launch on time. There can be significant variations in what constitutes reasonable notice and we have had good discussions with the GCA about this.

In one example this year, a supplier raised a specific query around how Waitrose treats seasonal lines, especially where Waitrose may choose to no longer stock a line that was previously featured in the previous year's range. This led Waitrose to review how suppliers of seasonal lines might perceive the outcome of annual tender processes. As a result, Waitrose issued specific guidance to its buying teams which sought to improve communications with any suppliers affected by a seasonal tender and ensure they were treated fairly and in line with the Code.

Waitrose encourages suppliers to raise any concerns they have about a De-listing with the relevant buying team in a timely manner.

Waitrose Stores Limited



Christine Tacon

Groceries Code Adjudicator and Accounting Officer

29 May 2019

SECTION B: ACCOUNTABILITY REPORT

Corporate governance report

Director's report

The Groceries Code Adjudicator (GCA) is a corporation sole and is an independent regulator sponsored by the Department for Business, Energy and Industrial Strategy (BEIS). Christine Tacon CBE was appointed to the role in June 2013 and was appointed as the Accounting Officer.

As Accounting Officer, I am responsible for ensuring that the GCA has an appropriate governance structure and systems to ensure I meet my statutory obligations. I am personally responsible for safeguarding public funds for which I have charge; for ensuring propriety and regularity in the handling of public funds; and for day-to-day operations and management of the GCA as set out in *Managing Public Money*.

Governance structure

The GCA governance structure combines efficient decision making with accountability and transparency. As Accounting Officer, I chair the Executive Board which is my governance body responsible for ensuring that the GCA's statutory obligations are met and that decision-making and financial management are carried out appropriately and that the office is managed effectively.

I also chair the Audit and Risk committee and the Operations committee which report to the Executive Board. I am personally responsible for promoting and safeguarding regularity, propriety, affordability, sustainability, risk and value for money; and accounting accurately and transparently for the GCA's financial position and transactions.

As the GCA is a corporation sole and a small regulator there are no non-executive directors. Further details about the governance structure are set out in the Governance Statement.

Register of interests

A register of interests of the GCA is maintained by the secretary to the Executive Board and is available on the GCA website. The Adjudicator is the only Senior Civil Service (SCS) level member of the Executive Board and is the only person subject to disclosure rules. The Adjudicator has no interest which is considered to give rise to any conflict.

Personal data

There were no personal data disclosure incidents in 2018/19 and therefore nothing was referred to the Information Commissioner.



Christine Tacon

Groceries Code Adjudicator and Accounting Officer

29 May 2019

Statement of the GCA Accounting Officer's responsibilities

The Groceries Code Adjudicator Act 2013 (the GCA Act), at Schedule 1, paragraph 15(1), requires the GCA to keep proper accounts and proper records in relation to the accounts. For each financial year the Adjudicator must prepare a statement of accounts in respect of that financial year detailing the resources acquired, held or disposed of during the year and the use of resources by the GCA during the year. These must be published and submitted to the Secretary of State for BEIS who will be responsible for laying the accounts before Parliament.

The accounts follow the form and the basis set out in the accounts direction. The financial statements are prepared on an accruals basis and give a true and fair view of the GCA's state of affairs at the year end and of its income and expenditure, recognised gains and losses and cash flows for the financial year.

In preparing financial statements the GCA is required to comply with the requirements of the Government Financial Reporting Manual and in particular:

- i) Observe the accounts direction issued by the Secretary of State, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;
- ii) Make judgements and estimates on a reasonable basis;
- iii) State whether applicable accounting standards as set out in the Government Financial Reporting Manual have been followed, and disclose and explain any material departures in the financial statements; and
- iv) Prepare the financial statements on a going concern basis.

The Principal Accounting Officer for BEIS has designated the Adjudicator as the Accounting Officer. The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of levy funding (classified as public finances) for which the Accounting Officer is answerable, for keeping of proper records and for safeguarding the GCA's assets, are set out in the Accounting Officer's Memorandum issued by the Treasury and published in *Managing Public Money*.

So far as I am aware, there is no relevant audit information of which the auditors are unaware. I have taken all the steps I ought to have taken to make myself aware of any relevant audit information and to establish that the auditors are aware of that information.

I take personal responsibility for the Annual Report and Accounts and the judgements required for determining that it is fair, balanced and understandable; which I confirm they are.



Christine Tacon

Groceries Code Adjudicator and Accounting Officer

29 May 2019

Governance Statement

The Groceries Code Adjudicator responsibilities

The GCA was formally established on 25 June 2013 by the GCA Act. It was set up to ensure supermarkets treat their suppliers lawfully and fairly. The GCA was appointed by the then Secretary of State for Business, Innovation and Skills. It is a corporation sole based in the UK with a sole employee, the Adjudicator.

The GCA is responsible for monitoring and encouraging compliance with and enforcing the Groceries Supply Code of Practice (the Code), introduced in 2010. It applies to retailers designated by the Competition and Markets Authority (CMA) under the Groceries (Supply Chain Practices) Market Investigation Order 2009 (the Order). As at 31 March 2019 these were: Aldi Stores Limited, Asda Stores Limited, B&M European Value Retail SA, Co-operative Group Limited, Iceland Foods Limited, J Sainsbury plc, Lidl UK GmbH, Marks & Spencer plc, Ocado Group plc, Tesco plc, Waitrose Limited, and Wm Morrison Supermarkets plc.

The GCA statutory purposes set out in the Act are to:

- Provide advice to both suppliers and regulated retailers on matters relating to the Code;
- Arbitrate in disputes between suppliers and regulated retailers;
- Investigate issues to ascertain whether there has been a breach of the Code;
- Impose sanctions and other remedies for breaches of the Code; and
- Publish an annual report on the Adjudicator's activities.

The Adjudicator is the Accounting Officer. Governance of the GCA is carried out through an Executive Board, Audit and Risk committee and an Operations committee.

A review of Board effectiveness is carried out on a bi-annual basis and was carried out during 2018/19. This Governance Statement sets out any changes following this review.

Governance framework: Executive Board

Executive Board

Ensures that the GCA's statutory obligations are met and that decision-making and financial management are carried out appropriately.

Members: The Adjudicator; Head of Policy and Operations; and GCA Legal Adviser

The Executive Board discusses and takes strategic decisions which govern the actions of the GCA office. The Adjudicator chairs the Executive Board. There are two other members of the Executive Board: the Head of Policy and Operations and the GCA Legal Adviser. Two members of the Executive Board are female and one is male. One member of the Board identifies as Lesbian, Gay, Bisexual or Transgendered (LGBT); all identify as being from a White British ethnic background.

The Executive Board meets approximately every six to eight weeks and met five times in this reporting period with full attendance each time. Policy, financial and operational agenda items are scheduled as required. The Board ensures the GCA meets the statutory obligations set out in the Act. During the year, among the issues the Board considered were the report of the investigation into Co-operative Group Limited, the GCA's Top Issues, the annual levy, engagement with the two additional designated retailers, business continuity and succession planning. Robust information is provided to the Board in papers submitted for consideration. The Board is satisfied that this is of a quality which enables effective decision-making. The Board's work is also informed by the Operations committee and Audit and Risk committee.

The Board follows the Corporate Governance Code of Good Practice 2017 but applies it in a way proportionate to the nature and size of the GCA.

Following the review of Board effectiveness it was agreed to amend the terms of reference to reflect the fact that the aim of meeting every six weeks was a guideline only and that the Board would meet as and when merited by the business of the GCA. It was also agreed to schedule more regular reviews of succession planning and of the GCA's strategic objectives.

Governance framework: Operations committee

Operations committee

Ensures the GCA has the right resources, efficient financial management and has the appropriate procedures in place for the effective running of the office.

Members: The Adjudicator; Head of Policy and Operations; and Operations and Policy Manager

The Operations committee deals with all responsibilities associated with the running of the GCA office. Its main task is to ensure that the GCA has the right resources, practices, effective and efficient financial management and the appropriate procedures in place for the effective running of the office. The committee is chaired by the Adjudicator and other members are the Head of Policy and Operations and the Operations and Policy Manager. It met five times in this reporting period with full attendance at each meeting. Two members of the Operations committee are female and one male; one identifies as LGBT and one is from a Black, Asian or minority ethnic (BAME) background.

The key responsibilities of the Operations committee are to ensure that the strategic objectives set by the Executive Board are reflected in the operations and financial planning of the office, to review the 'Rolling Work Programme' and to oversee the proportionate internal audit approach. During the year the committee considered a range of issues including internal financial controls, forecast and budgets, events and awareness-raising activities, and the relocation of the GCA office to Cabot Square in 2019/20. A regular report is provided to the committee which contains key information. The committee is satisfied that this is of a quality which enables effective decision-making.

Following the review of Board effectiveness no changes were made to the Operations committee.

Governance framework: Audit and Risk committee

Audit and Risk committee

Reviewing and monitoring risks and ensuring sound financial management of the GCA in meeting its statutory purposes.

Members: The Adjudicator; Head of Policy and Operations; GCA Legal Adviser; Operations and Policy Manager

Observers: National Audit Office (NAO), Director of Consumer and Competition Policy, Department for Business, Energy and Industrial Strategy (Personal invitation).

The Audit and Risk committee meets twice a year. Its main tasks are to consider the GCA's financial position and financial management, review the risk register and approve the annual report and accounts. Rigorous consideration of these key matters takes place at each meeting.

The committee is chaired by the Adjudicator and other members are the Head of Policy and Operations, the GCA Legal Adviser and the Operations and Policy Manager. The Policy and Programme Manager attends when the risk register is reviewed. The National Audit Office and Director of Consumer and Competition Policy from BEIS attend in an observation capacity. Three members of the Audit and Risk committee are female and one male; one identifies as LGBT; three are from a white British and one from a BAME background. There was full attendance at both meetings.

Following the review of Board effectiveness no changes were made to the operation of this committee.

Funding the GCA

The GCA funding takes two forms: (i) a general levy on the regulated retailers; and (ii) recovery of costs of arbitrations undertaken, and of those investigations where one or more retailers are found to have breached the Code. Unspent funds at the end of the financial year are returned to the regulated retailers in the proportions in which they contributed to the levy.

The GCA Act states that the consent of the Secretary of State for BEIS is required before a levy can be imposed on the retailers.

The levy methodology for this financial year was approved by the Secretary of State for BEIS and the budget set at £2,000,000. The methodology included provision that any additional retailer designated during the year 2018/19 would be charged a flat-rate levy payment of £200,000 pro-rated to reflect the portion of the GCA financial year remaining from date of designation.

The methodology for calculating the levy in 2018/19 was broadly the same as was approved in 2017/18, with one modification as set out below.

Each retailer is charged a variable amount. In line with section 19 of the GCA Act, this variable percentage was based on criteria broadly intended to reflect the expense and time that the Adjudicator, in the light of previous experience, expected to spend in dealing with matters relating to the different retailers. 60% of the levy was split in equal shares between each retailer; 20% of the levy was split in different shares per retailer based on a methodology which reflects the complexity and size of the retailer's business and of practices falling within the GCA's Top Issues, whether

current or monitored issues; and 20% of the levy was split in different shares between those retailers that: had an open investigation at the beginning of the financial year; were being monitored for compliance with recommendations from a closed investigation at the beginning of the financial year; were a party to a chargeable arbitration opened in a previous financial year; or were the subject of a case study published in the previous financial year relating to practice at that retailer.

The one modification to the levy methodology was that previously only 10% of the levy was allocated to those retailers that have had an investigation, monitoring of compliance with recommendations, a case study published or a chargeable arbitration in the last financial year. However the Adjudicator decided to increase this share to 20% where there were three, four or five events falling into that category, with a corresponding decrease to the percentage share for business as usual activities; and where there were six or more events falling into this category, the percentage of the levy applied to it would be increased to 30%, again with a corresponding decrease to the percentage share for business as usual activities. This approach remained in line with the GCA Act and was decided based on information that it helps to drive improved Code compliance by retailers.

Each year the GCA publishes its levy funding policy on its website.

BEIS has also indicated previously that in the event that the GCA should find itself temporarily short of reserves, a loan facility would be provided. The levy nonetheless continues to be set at an amount estimated to provide the GCA with sufficient funds should the Adjudicator decide to launch an investigation in line with section 4 of the Act.

Two arbitrations were closed in 2018/19, and costs have been recovered from retailers for the GCA as arbitrator during the period. The investigation into Co-operative Group Limited concluded in 2018/19 and costs associated with the investigation have been recovered from the retailer during the period.

Format of the accounts

These accounts have been prepared in accordance with the direction from the Secretary of State for BEIS and HM Treasury's *Financial Reporting Manual* and *Managing Public Money*.

Financial position

The GCA's expenditure for 2018/19 was £1,835,898 increased from £697,302 in 2017/18. This increase reflects additional costs incurred due to the investigation into Co-operative Group Limited. Staff costs were £537,682 in 2018/19 compared to £450,156 in 2017/18. The increased figure for staff costs in 2018/19 is because the GCA was fully staffed throughout the reporting year. Staff costs as a proportion of total expenditure equated to 29% in the financial year 2018/19, compared to 65% in 2017/18, reflecting the significant increased spending as a result of the investigation. Other operating costs include finance, Information Communications Technology (ICT) and accommodation; and there was spending to support policy activities including the Code Confidential campaign and the annual supplier survey.

Remuneration of the GCA is in the range £75-£80,000 pro-rated from an annual salary within the band £130-£135,000 for a full-time equivalent.

The levy to be applied between the original ten designated retailers was set at £2,000,000. This was the same as the previous year. The two retailers additionally designated during 2018/19 paid £166,666 of levy. The total levy raised was therefore £2,166,666.

Going concern

The GCA will receive levy income for 2019/20 to fund its activities. Approval for the levy was received on 10 April 2019 from the Secretary of State for BEIS. It has been accordingly considered appropriate to adopt a going concern basis for the preparation of these financial statements. Budget pressures are possible should investigations or arbitrations result in accruals where the GCA has not recovered its costs within the year. As stated in the *Funding the GCA* section above, the GCA has set the levy at an amount estimated to provide the GCA with sufficient funds to cover such circumstances with additional support from BEIS where necessary.

VAT

The GCA is not registered for VAT. Following a review by HMRC no VAT is charged on staff secondment costs to the GCA and all VAT applied on previous invoices for this has been recovered.

Audit

The auditor of the GCA is the Comptroller and Auditor General. The audit fee for the period ended 31 March 2019 is £9,000 (2017/18: £7,000), as disclosed in note 3 to the Financial Statements. A proportionate internal audit mechanism is implemented by the GCA, consisting of a regular review of the risk register, an audit of financial controls and a review schedule of policies and publications.

Payment practices

The GCA has committed to pay all undisputed supplier invoices within a maximum of 30 days. The GCA approved and processed 99.15% of invoices within 30 days of receipt, failing on one invoice. On average it took 3.34 days to pay each invoice, an improvement on the average of 5.68 days in 2017/18.

Key risks

The risk register is reviewed every six months. The risk categories are finance, procurement and audit, HR and recruitment, operational, relations with regulated retailers, stakeholder management, governance, reputation and legislation.

The key risks for this period have evolved to reflect the activities of the GCA over that time and the impact of outside events. Previous risks relating to the possibilities of GCA publications being delayed by the Government's approach to better regulation and the GCA being undermined by machinery of Government changes were removed from the risk register. These issues are now managed through a business as usual approach. A number of other risks from 2017/18 were merged to reflect the fact that the mitigating actions in respect of each of them are largely the same. For example, two risks relating to HR and recruitment affecting the operation of the GCA were consolidated into one. Similarly, risks relating to suppliers bringing issues to the GCA that are out of scope and suppliers not coming forward with information because of concerns about confidentiality were also merged. This example reflects the fact that GCA awareness-raising activities have minimised both of these risks.

Two new risks were added to the risk register. The first relates to activity by BEIS undermining the independence of the GCA and its status as a corporation sole. To mitigate this risk, the GCA

works as appropriate with the BEIS sponsorship and Partnership Organisations teams to ensure a distinction is maintained between BEIS treatment of its partner organisations and its treatment of the GCA as a corporation sole. The second new risk considers the possibility that additional regulated retailers may be resistant to the established regulatory framework and collaborative approach. The GCA mitigates this risk by promoting the success of the collaborative approach with additional designated retailers from the outset.

Other key risks in the 2018/19 risk register include:

- Ineffective business continuity arrangements lead to unnecessary interruption of GCA business.

The GCA office is a small team so the potential impact of ineffective business continuity arrangements is high. To mitigate this risk, the GCA implements both BEIS and its own specific continuity arrangements. The GCA also keeps BEIS informed about the likely end date of the current Adjudicator's term of office.

- The GCA is misrepresented by stakeholders and opinion holders (e.g. media and MPs) because they fail to understand the role of the GCA.

A lack of understanding of the role and remit of the GCA by some influential opinion holders may raise expectations among suppliers that the GCA can address concerns that are not in fact covered by the Code. This can have a negative impact on the GCA's reputation and can be a significant drain on GCA resources. To mitigate this risk the GCA uses briefing and communication material, in particular the Code Confident campaign, which encourages suppliers to get trained in the Code. This is supported by a communications strategy including a timetable of main events to ensure the Code Confident message reaches as many stakeholders as possible.

Sustainability

The GCA does not fall within scope of the Greening Government Commitments. As a tenant of the CMA, reporting associated with the GCA will be incorporated into the CMA annual report and accounts.

Statement by the Adjudicator

As Accounting Officer, I ensure that the GCA has an appropriate governance structure to meet the requirements of the office and to provide the right level of control over decision making. I can confirm there have been no data losses or ministerial directions. A formal governance review was conducted this year.

I have considered the evidence that supports this Governance Statement and I am assured the GCA has a strong system of controls to support the achievement of my statutory purposes. I therefore have no disclosures of control weaknesses to make for the 2018/19 financial year.



Christine Tacon

Groceries Code Adjudicator and Accounting Officer

29 May 2019

Remuneration and staff report

Overview and remuneration policy

The GCA has no remuneration responsibilities. The remuneration of the Adjudicator is determined by the Secretary of State for BEIS under Schedule 1 of the Act. The Adjudicator is designated as Office Holder and is a corporation sole.

The GCA team, all of which are on secondment from public bodies, retain the terms and conditions of their home departments. Note 2 to the financial statements provides further information about this. Remuneration decisions are taken by the relevant department of the secondee. The Adjudicator's salary payments in this financial year were in the band of £75-£80,000, pro-rated from an annual salary within the band of £130-£135,000 for a full-time equivalent.

The Adjudicator receives a civil service pension. Other pension commitments are met by the home departments of the secondees to the GCA.

Remuneration (salary, benefits in kind and pensions)

Single total figure of remuneration (audited)										
Public appointee	Salary (in £5k bandings)		Bonus payments (in £5k bandings)		Non cash benefits (to nearest £100)		Accrued pension benefits (to nearest £'000)		Total (in £5k bandings)	
	2018/19	2017/18	2018/19	2017/18	2018/19	2017/18	2018/19	2017/18	2018/19	2017/18
Christine Tacon	75-80 (£130-135 for a full time equivalent)	75-80 (£130-135 for a full time equivalent)	–	–	–	–	31	35	110-115	110-115

This table has been subject to audit.

Salary

'Salary' includes gross salary; overtime; reserved rights to London weighting or London allowances; recruitment and retention allowances; private office allowances and any other allowance to the extent that it is subject to UK taxation. This report is based on accrued payments made by the GCA and thus recorded in these accounts.

Benefits in kind

No allowances, bonuses or benefits in kind have been made to the Adjudicator.

The Cash Equivalent Transfer Value (CETV)

This is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time.

Pension Benefits (audited)						
Officials	Accrued pension at age as at 31 March 2019 and related lump sum	Real increase in pension and related lump sum at pension age	CETV at 31 March 2019	CETV at 31 March 2018	Real increase in CETV	Employer contribution to partnership pension account
	£'000	£'000	Nearest £1,000	Nearest £1,000	Nearest £1,000	Nearest £100
Christine Tacon	10	2	154	122	32	0

This table has been subject to audit.

Civil Service Pensions

Pension benefits are provided through the Civil Service pension arrangements. From 1 April 2015 a new pension scheme for civil servants was introduced – the Civil Servants and Others Pension Scheme or **alpha**, which provides benefits on a career average basis with a normal pension age equal to the member's State Pension Age (or 65 if higher). From that date all newly appointed civil servants and the majority of those already in service joined alpha. Prior to that date, civil servants participated in the Principal Civil Service Pension Scheme (PCSPS).

These statutory arrangements are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions payable under classic, premium, classic plus, nuvos and alpha are increased annually in line with Pensions Increase legislation. Existing members of the PCSPS who were within 10 years of their normal pension age on 1 April 2012, remained in the PCSPS after 1 April 2015. Those who were between 10 years and 13 years and 5 months from their normal pension age on 1 April 2012 will switch into alpha sometime between 1 June 2015 and 1 February 2022. All members who switch to alpha have their PCSPS benefits 'banked', with those with earlier benefits in one of the final salary sections of the PCSPS having those benefits based on their final salary when they leave alpha.

Employee contributions are salary-related and range between 4.6% and 8.05% for members of nuvos and alpha. In nuvos a member builds up a pension based on his pensionable earnings during their period of scheme membership. At the end of the scheme year (31 March) the member's earned pension account is credited with 2.3% of their pensionable earnings in that scheme year and the accrued pension is uprated in line with Pensions Increase legislation. Benefits in alpha build up in a similar way to nuvos, except that the accrual rate is 2.32%. In all cases members may opt to give up (commute) pension for a lump sum up to the limits set by the Finance Act 2004.

The accrued pension quoted is the pension the member is entitled to receive when they reach pension age, or immediately on ceasing to be an active member of the scheme if they are already at or over pension age. Pension age is 65 for members of nuvos, and the higher of 65 or State

Pension Age for members of alpha. (As the Adjudicator has benefits in both the PCSPS – nuvos – and alpha the figure quoted is the combined value of their benefits in the two schemes but note that part of that pension may be payable from different ages).

Further details about the Civil Service pension arrangements can be found at the website www.civilservicepensionscheme.org.uk

Career Average pension arrangements were introduced from 1 April 2015 and the GCA joined this scheme. Further details of this scheme are available at:

<http://www.civilservicepensionscheme.org.uk/members/the-new-pension-scheme-alpha/>

Fair pay disclosure

The GCA only has one employee. All other staff during the year were seconded from other public bodies.

Reporting bodies are however required to disclose the relationship between the remuneration of the highest-paid 'director' in their organisation and the median remuneration of the organisation's workforce.

The banded remuneration of the highest-paid 'director' at the GCA (i.e. the Adjudicator) in the financial year 2018-19 was £130,000-£135,000. This was 2.5 times the median remuneration of the workforce, compared to 2.6 times in the previous financial year.

No remuneration range has been provided as this would disclose the salaries of those individuals that work at the GCA.

Total remuneration includes salary, non-consolidated performance-related pay and benefits-in-kind. It does not include severance payments, employer pension contributions and the cash equivalent transfer value of pensions.

The GCA notes that the salaries of seconded staff will also be included in assessments of pay multiples at the public bodies they are employed by. The Adjudicator maintains the view, as reported in previous annual report and accounts, that it is inappropriate to calculate a median staff pay figure for the year for the GCA office as there is only one member of staff and the GCA has no control over the remuneration of seconded staff.

This has been subject to audit.

Staff report

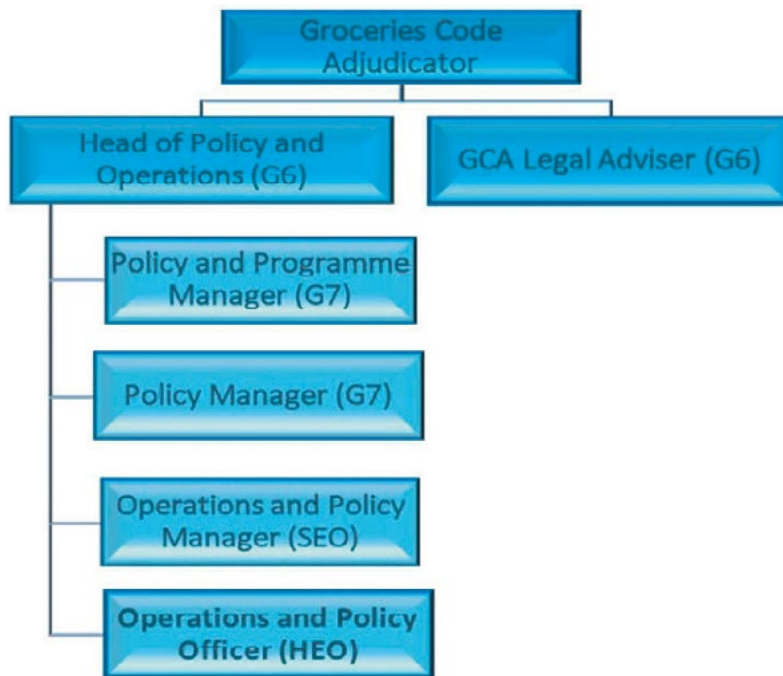
Staff numbers, costs and composition

The GCA is designated as a corporation sole and therefore the Adjudicator is the only employee of the GCA. Staff supporting the GCA are seconded from public bodies, with occasional support from temporary contractors where a position has been unable to be filled. The guiding principle in resourcing the GCA has been to recruit the resources needed in a phased way based on anticipated workload. In the model of the GCA designed by BEIS it was predicted that a staff of eight would be required, including the GCA. Staff costs for 2018/19 were £537,682 comprising: £108,059 permanent staff costs; and £429,623 of other staff costs for secondees and temporary staff.

The GCA is employed for three days each week and is a senior civil servant equivalent and is female. There was a team of six secondees during the reporting year: GCA Legal Adviser, who works four days each week, a full-time Head of Policy and Operations, a full-time Policy Manager, a full-time Policy and Programme Manager, a full-time Operations and Policy Manager and a full-time Operations and Policy Officer. Media and communications support was provided until August 2018 under contract following a competitive public procurement exercise in 2016. This support is now provided on a temporary basis when required.

Every effort has been made to ensure that the office has the right skills and resources and has a diverse representation. In the GCA team there were five females and two males; one from a BAME background; and one who identifies as LGBT. The learning and development plan continues to be reviewed during the year to ensure all staff have the right skills and experience to perform their roles.

The GCA continues to review the resources required to meet its objectives. The organisation chart at the end of the reporting period was:



No recruitment activities were conducted during the year. Budget is held by the GCA Legal Adviser to obtain additional specialist legal support where necessary.

Staff numbers and related costs tables are included in Note 2 of the Financial Statements.

This has been subject to audit.

Sickness absence

There has been no sickness absence at the GCA.

Staff policies and other employee matters

As staff working in the GCA office remain employees of the public bodies from which they are seconded, they are primarily subject to the staff policies of those organisations. The GCA ensures it meets its commitments on equality and diversity, health and safety and wellbeing for staff working in the office. The GCA gives full and fair consideration to applications to be seconded to the office from disabled persons and will implement relevant policies for training and career development where necessary.

Consultancy expenditure

Consultancy expenditure and expenditure relating to the procurement contract for the annual GCA survey are shown in Note 3 of the accounts.

All government departments and their arm's length bodies that employ individuals 'off payroll' for more than six months have to report to HM Treasury about the financial arrangement, to make sure it is transparent and that the individual in question is paying the right amount of tax and National Insurance (NI). The GCA has reviewed the way it makes these appointments to ensure its processes are robust. The GCA has the right to request assurances, and do so, from the individual in relation to monies received from HMRC. The GCA can terminate any contract if these assurances are not provided.

Reporting on the tax arrangements of public sector appointees

New legislation came into effect from April 2017. The reform shifts the responsibility for deciding whether tax and NI are due from the individual contractor to the organisation for whom the contractor will work. The GCA has ensured that arrangements are in place to determine if contractors are in or out of scope, where relevant that arrangements are in place for the deduction of tax and NI, and that assurances are sought.

The tables below set out the status of off-payroll contractors engaged by the GCA using the standard reporting format. This records new off-payroll engagements, or those that reached six months in duration, between 1 April 2018 and 31 March 2019, for more than £245 per day and that last for longer than six months.

Table 1: For all off-payroll engagements as of 31 March 2019, for more than £245 per day and that last for longer than six months

No. of existing engagements as of 31 March 2019	1
Of which...	
No. that have existed for less than one year at time of reporting.	0
No. that have existed for between one and two years at time of reporting.	1
No. that have existed for between two and three years at time of reporting.	0
No. that have existed for between three and four years at time of reporting.	0
No. that have existed for four or more years at time of reporting.	0

Declaration: all existing off-payroll engagements, outlined above, have at some point been subject to a risk based assessment as to whether assurance needs to be sought that the individual is paying the right amount of tax and, where necessary, that assurance has been sought.

Table 2: For all new off-payroll engagements, or those that reached six months in duration, between 1 April 2018 and 31 March 2019, for more than £245 per day and that last for longer than six months

Nil return

Table 3: For any off-payroll engagements of board members, and/or, senior officials with significant financial responsibility, between 1 April 2018 and 31 March 2019

No. of off-payroll engagements of board members, and/or, senior officials with significant financial responsibility, during the financial year.	1
Total no. of individuals on payroll and off-payroll that have been deemed “board members, and/or, senior officials with significant financial responsibility”, during the financial year. This figure should include both on payroll and off-payroll engagements.	1

Exit packages

Any exit packages would be the responsibility of the public bodies seconding staff to the GCA or for BEIS. This has been subject to audit.

Parliamentary accountability and audit report

Parliamentary Accountability Disclosures

The Adjudicator, as Accounting Officer, is responsible for the propriety and regularity of the public finances for which she is answerable and for keeping proper records.

The GCA has nothing to report in respect of: losses and special payments; remote contingent liabilities; fees and charges income; or gifts. This has been subject to audit.

Details of the GCA's statutory reporting requirements are set out in the performance report.

Wider government and Parliamentary input

The GCA is fully committed to meeting its wider duties as a public body and engaging fully with Parliament and devolved governments. In this reporting period, the GCA has fulfilled these duties in the following ways set out below.

The Regulators' Code

The GCA is a non-economic regulator which must have regard to the Regulators' Code. The Regulators' Code obliges the GCA to follow stated principles when developing policy or operational procedures and when setting standards or giving guidance which informs GCA regulatory activity.

Growth duty

The GCA is committed to following the Government's better regulation agenda and the GCA will take account of the economic impact of its regulatory activities on growth. This follows the requirement of section 108 of the Deregulation Act 2015, which stipulates that:

- (1) A person exercising a regulatory function to which this section applies must in the exercise of the function have regard to the desirability of promoting economic growth.
- (2) Consider the importance for the promotion of economic growth of exercising the regulatory function in a way which ensures that:
 - (a) Regulatory action is taken only when it is needed, and
 - (b) Any action taken is proportionate.

Business Impact Target

The Small Business, Enterprise and Employment Act 2015 requires the Government to publish, then report on, its performance against a deregulation target – the Business Impact Target (BIT). The Enterprise Act 2016 brought a number of regulators, including the GCA, into scope for this target. The GCA published its response for the reporting period of 9 June 2017 to 20 June 2018. The GCA had no qualifying regulatory provisions.

Review of business appeals procedure

The Small Business, Enterprise and Employment Act 2015 contained the introduction of a new review mechanism for the appeals procedure of each non-economic regulator, which includes the GCA. The law provides for the appointment of a reviewer by the Secretary of State to:

- (a) Review the effectiveness during each reporting period of the procedures (both formal and informal) of the relevant regulator for handling and resolving complaints and appeals made by businesses to the regulator in connection with the exercise by the regulator of the function, and
- (b) Prepare a report about the findings of the review.

The GCA will work with BEIS on the implementation of this requirement when necessary.

Parliamentary and Ministerial engagement

During the reporting year the Adjudicator met with Andrew Griffiths MP the then Minister for Small Business, Consumers and Corporate Responsibility, spoke with Greg Clark MP the Secretary of State for BEIS, and met with David Rutley MP, Minister for Food and Animal Welfare. In May 2018, the Adjudicator appeared alongside George Eustice MP the then Minister for Agriculture, Fisheries and Food at a hearing of the Environment, Food and Rural Affairs (EFRA) committee in the House of Commons. On 7 November 2018 the Adjudicator wrote to Neil Parish MP, Chair of the EFRA committee to highlight those parts of the Agriculture Bill that could be of relevance to the GCA in the future.

Engagement with the Devolved Nations

The GCA attended three events in Scotland, two events in Wales, and one in Northern Ireland.



Christine Tacon

Groceries Code Adjudicator and Accounting Officer

29 May 2019

The Certificate of the Comptroller and Auditor General to the Houses of Parliament

Opinion on financial statements

I certify that I have audited the financial statements of the Groceries Code Adjudicator for the year ended 31 March 2019 under the Groceries Code Adjudicator Act 2013. The financial statements comprise: the Statements of Comprehensive Net Expenditure, Financial Position, Cash Flows, Changes in Taxpayers' Equity; and the related notes, including the significant accounting policies. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Accountability Report that is described in that report as having been audited.

In my opinion:

- the financial statements give a true and fair view of the state of the Groceries Code Adjudicator's affairs as at 31 March 2019 and of net expenditure for the year then ended; and
- the financial statements have been properly prepared in accordance with the Groceries Adjudicator Act and Secretary of State directions issued thereunder.

Opinion on regularity

In my opinion, in all material respects the income and expenditure recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

Basis of opinions

I conducted my audit in accordance with International Standards on Auditing (ISAs) (UK) and Practice Note 10 'Audit of Financial Statements of Public Sector Entities in the United Kingdom'. My responsibilities under those standards are further described in the Auditor's responsibilities for the audit of the financial statements section of my certificate. Those standards require me and my staff to comply with the Financial Reporting Council's Revised Ethical Standard 2016. I am independent of the Groceries Code Adjudicator in accordance with the ethical requirements that are relevant to my audit and the financial statements in the UK. My staff and I have fulfilled our other ethical responsibilities in accordance with these requirements. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Conclusions relating to going concern

We are required to conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Groceries Code Adjudicator's ability to continue as a going concern for a period of at least twelve months from the

date of approval of the financial statements. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the entity to cease to continue as a going concern. I have nothing to report in these respects.

Responsibilities of the Accounting Officer for the financial statements

As explained more fully in the Statement of Accounting Officer's Responsibilities, the Accounting Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view.

Auditor's responsibilities for the audit of the financial statements

My responsibility is to audit, certify and report on the financial statements in accordance with the Groceries Adjudicator Act 2013.

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with ISAs (UK), I exercise professional judgment and maintain professional scepticism throughout the audit. I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Groceries Code Adjudicator's internal control.
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the consolidated financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

In addition, I am required to obtain evidence sufficient to give reasonable assurance that the income and expenditure reported in the financial statements have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

Other Information

The Accounting Officer is responsible for the other information. The other information comprises information included in the annual report other than the parts of the Accountability Report described in that report as having been audited, the financial statements and my auditor's report thereon. My opinion on the financial statements does not cover the other information and I do not express any form of assurance conclusion thereon. In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit or otherwise appears to be materially misstated. If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact. I have nothing to report in this regard.

Opinion on other matters

In my opinion:

- the parts of the Accountability Report to be audited have been properly prepared in accordance with Secretary of State directions made under the Groceries Code Adjudicator Act 2013;
- in the light of the knowledge and understanding of the Groceries Code Adjudicator and its environment obtained in the course of the audit, I have not identified any material misstatements in the Performance Report or the Accountability Report; and
- the information given in the Performance Report and Accountability Report for the financial year for which the financial statements are prepared is consistent with the financial statements.

Matters on which I report by exception

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept or returns adequate for my audit have not been received from branches not visited by my staff; or
- the financial statements and the parts of the Accountability Report to be audited are not in agreement with the accounting records and returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Governance Statement does not reflect compliance with HM Treasury's guidance.

Report

I have no observations to make on these financial statements.

Sir Amyas C E Morse
Comptroller and Auditor General

National Audit Office
157-197 Buckingham Palace Road
Victoria
London
SW1W 9SP

30 May 2019

SECTION C: FINANCIAL STATEMENTS

Statement of Comprehensive Net Expenditure for the year ended 31 March 2019

	Note	Year ending 31-Mar-19 £	Year ending 31-Mar-18 £
Expenditure			
Staff costs	2	537,682	450,156
Other expenditure	3	1,298,216	247,146
		<u>1,835,898</u>	<u>697,302</u>
Income			
Other income	4	<u>(1,835,898)</u>	<u>(697,302)</u>
Net Expenditure		<u>–</u>	<u>–</u>
Total Comprehensive Expenditure for the year ended 31 March		<u>–</u>	<u>–</u>

The notes on pages 77 to 86 form part of these financial statements.

There was no other comprehensive expenditure.

Statement of Financial Position as at 31 March 2019

	Note	Year ending 31-Mar-19 £	Year ending 31-Mar-18 £
Current assets:			
Other receivables due within one year	6	1,335,218	7,694
Cash	7	502,796	1,538,716
Total current assets		<u>1,838,014</u>	<u>1,546,410</u>
Total assets		<u>1,838,014</u>	<u>1,546,410</u>
Current liabilities:			
Contract liability	8	1,712,262	1,311,657
Other payables and accruals	8	125,752	234,753
Total current liabilities		<u>1,838,014</u>	<u>1,546,410</u>
Current assets less current liabilities		<u>–</u>	<u>–</u>
Taxpayers' equity			
Income and expenditure reserve		<u>–</u>	<u>–</u>
Total Equity		<u>–</u>	<u>–</u>

The notes on pages 77 to 86 form part of these financial statements.



Christine Tacon

Groceries Code Adjudicator and Accounting Officer

29 May 2019

Statement of Cash Flows for the year ended 31 March 2019

	Year ending 31-Mar-19 £	Year ending 31-Mar-18 £
Cash flows from operating activities		
Net operating expenditure	–	–
(Increase)/decrease in receivables	6 (1,327,524)	13,487
Increase/(decrease) in payables	8 291,604	(62,919)
Net cash outflow from operating activities	<u>(1,035,920)</u>	<u>(49,432)</u>
There are no cashflows from investing or financing activities		
Net decrease in cash and cash equivalents in the period	7 (1,035,920)	(49,432)
Cash at the beginning of the period	1,538,716	1,588,148
Cash at the end of the period	502,796	1,538,716

The notes on pages 77 to 86 form part of these financial statements.

Statement of Changes in Taxpayers' Equity

	I & E Reserve £	Total Reserves £
	<u> </u>	<u> </u>
Balance as at 31 March 2017	–	–
Changes in Taxpayers' Equity comprehensive expenditure for the year		
Comprehensive expenditure for the year	–	–
Balance as at 31 March 2018	<u> </u> –	<u> </u> –
Changes in Taxpayers' Equity comprehensive income for the year		
Comprehensive income for the year	–	–
Balance as at 31 March 2019	<u> </u> –	<u> </u> –

The GCA holds no reserves. GCA is levy funded and unspent levy is reflected in deferred income.

Notes to the financial statements

1. Accounting policies

These financial statements have been prepared in accordance with the 2018/19 Government Financial Reporting Manual (FReM). The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector context. Where the FReM permits a choice of accounting policy, the accounting policy which is judged to be the most appropriate to the particular circumstances of the GCA for the purposes of giving a true and fair view has been selected. The particular policies adopted by the GCA for the purpose of financial reporting are described below. They have been applied consistently in dealing with items that are considered material to the accounts. The accounts have been prepared under the direction of the Department for Business, Energy and Industrial Strategy ('BEIS').

There were no new standards issued up to 31 March 2019 and not applied that would materially affect the accounts. The GCA has also not adopted any standards early but has considered future changes in standards.

New accounting standards

IFRS 9 and IFRS 15 are new accounting standards that are effective for the year ended 31 March 2019. These new accounting standards have not had a material impact on the GCA. There were no other amendments to accounting standards, or IFRIC interpretations that are effective for the year ended 31 March 2019 which have had a material impact. Further details in relation to both IFRS 9 and IFRS 15 are noted below:

IFRS 9

The GCA has adopted IFRS 9 from 1 April 2018. The standard introduced new classification and measurement models for financial assets. A financial asset shall be measured at amortised cost if it is held within a business model whose objective is to hold assets in order to collect contractual cash flows which arise on specified dates and that are solely principal and interest. A debt investment shall be measured at fair value through other comprehensive income if it is held within a business model whose objectives is to both hold assets in order to collect contractual cash flows which arise on specifies dates that are solely principal and interest as well as selling the asset on the basis of its fair value. All other financial assets are classified and measured at fair value through profit or loss unless the entity makes an irrevocable election on initial recognition to present gains and losses on equity instruments (that are not held-for-trading or contingent consideration recognised in a business combination) in other comprehensive income ('OCI'). Despite these requirements, a financial asset may be irrevocably designated as measured at fair value through profit or loss to reduce the effect of, or eliminate, an accounting mismatch. For financial liabilities designated at fair value through profit or loss, the standard requires the portion of the change in fair value that relates to the entity's own credit risk to be presented in OCI (unless it would create an accounting mismatch). New simpler hedge accounting requirements are intended to more closely align the accounting treatment with the risk management activities of the entity. New impairment requirements use an 'expected credit loss' ('ECL') model to recognise an allowance. Impairment is measured using a 12-month ECL method unless the credit risk on a financial instrument has

increased significantly since initial recognition in which case the lifetime ECL method is adopted. For receivables, a simplified approach to measuring expected credit losses using a lifetime expected loss allowance is available.

IFRS 9 has been adopted by GCA in the year ended 31 March 2019. This has not had an impact on GCA which has no history of losses on levy income or cost recovery associated with investigations or arbitrations.

IFRS 15

The GCA has adopted IFRS 15 from 1 April 2018. The standard provides a single comprehensive model for revenue recognition. The core principal of the standard is that an entity shall recognise revenue to depict the transfer of promised goods or services to customers at an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. The standard introduced a new contract-based revenue recognition model with a measurement approach that is based on an allocation of the transaction price. Credit risk is presented separately as an expense rather than adjusted against revenue. Contracts with customers are presented in an entity's statement of financial position as a contract liability, a contract asset, or a receivable, depending on the relationship between the entity's performance and the customer's payment. Customer acquisition costs and cost to fulfil a contract can, subject to certain criteria, be capitalised as an asset and amortised over the contract period.

The GCA raises revenue through the form of a levy on the retailers it regulates. Revenue also comes in the form of cost recoverable activities. The GCA Act 2013 does not impose specific performance measures on the GCA which will impact its current revenue recognition policy.

Standards not yet effective

IFRS 16 Leases will be effective for GCA for the year ending 31 March 2020. IFRS 16 requires the recognition of a right of use asset and a lease liability for all leases in scope of IFRS 16. The adoption of IFRS 16 will result in the recognition of a right of use asset and lease liability in respect of the rental of accommodation. The impact of the adoption of IFRS 16 has not yet been quantified. However, a more detailed IFRS 16 assessment will take place once the new Memorandum of Terms of Occupation is in place when the GCA relocates to new premises during the year 2019/20.

Income

General levy

The GCA received levy income for 2018/19 to fund its activities. Approval for the levy for the year 2018/19 was received on 28 March 2018. The levy is invoiced once audited accounts are published. Section 19 of the Groceries Code Adjudicator Act 2013 provides that the full costs of the GCA will be funded through a levy on the retailers that are designated under the Groceries (Supply Chain Practises) Market Investigation Order 2009. As at 31 March 2019 these were: Aldi Stores Limited, Asda Stores Limited, B&M European Value Retail SA, Co-operative Group Limited, Iceland Foods Limited, Lidl UK GmbH, Marks & Spencer plc, Wm Morrison Supermarkets plc, Ocado Group plc, J Sainsbury plc, Tesco plc and Waitrose Limited.

From 1 November 2018 B&M European Value Retail SA and Ocado Group plc were designated under the Groceries (Supply Chain Practises) Market Investigation Order 2009.

The GCA has adopted IFRS 15 in the year. This has not resulted in an adjustment to income recognition. The GCA raises income by levy on the retailers it regulates. The levy is applied and invoiced to retailers at the start of each financial year. Any unspent levy at the end of the financial year is returned to the retailers in the proportions in which it was contributed. The general levy and associated rebate are variable consideration under IFRS 15. The variable consideration is determined using the most likely amount. There is a constraint on the variable consideration with the income from the general levy determined at the end of the financial year once the uncertainty associated with the levy rebate has been resolved.

Investigations

The GCA has the discretion to charge the applicable retailer(s) the full costs of an investigation which results in a finding that the Code has been broken. It is expected that this will be the approach adopted.

Any appeals will be funded from the general levy.

Costs incurred during investigations are recognised in full during the course of the investigation. The income associated with the recoverable costs of an investigation is a variable consideration. Until the investigation has been completed and findings published, there is uncertainty in respect of income from costs recovery. Income from the recovery of investigation costs is recognised at the point the GCA becomes entitled to recover them. Any income received from the recovery of investigation costs is taken into account in determining the general levy rebate at the end of the financial year.

There was one investigation in 2018/19 which was concluded in March 2019. The findings were published on 25 March 2019.

Arbitrations

The GCA will in the great majority of cases recover the full costs of an arbitration, in accordance with Article 11(7) of the Groceries (Supply Chain Practices) Market Investigation Order 2009. All costs of the GCA as arbitrator are to be borne by the retailer which is the party to the arbitration; unless the arbitrator decides that the supplier's claim was vexatious or wholly without merit, in which case costs will be assigned at the arbitrator's discretion. The other costs of an arbitration, such as the parties' legal costs, can be apportioned in the final award.

The costs of arbitration are recognised in full during the course of the arbitration. The income from arbitration costs recovery is recognised during the course of the arbitration based on time incurred and published hourly rates.

Going concern

The GCA will receive levy income for 2019/20 to fund its activities. Approval for the levy was received on 10 April 2019 from the Secretary of State for Business, Energy and Industrial Strategy, and there is no reason to believe that future approval will not be granted. In assessing whether the going concern assumption is appropriate, management takes into account all available information about the future, which is at least, but not limited to, 12 months from the end of the reporting period. It has been accordingly considered appropriate to adopt a going concern basis for the preparation of these financial statements.

Financial instruments

Financial instruments are initially measured at fair value plus transaction costs unless they are carried at fair value through profit and loss in which case transaction costs are charged to operating costs.

The categorisation of financial assets and liabilities depends on the purpose for which the asset or liability is held or acquired. Management determine the categorisation of assets and liabilities at initial recognition and re-evaluate this designation at each reporting date. The categorisation of financial assets is determined based on both the business model and the nature of the contractual cash flows.

Financial assets

The GCA holds financial assets, which comprise of cash at bank and receivables. These are non-derivative financial assets with fixed or determinable payments that are not traded in an active market. Since these balances are expected to be realised within 12 months of the reporting date, there are no material differences between fair value, amortised cost and historical cost.

Financial liabilities

The GCA holds financial liabilities, which comprise of payables and contract liability. Since these balances are expected to be settled within 12 months of the reporting date, there are no material differences between fair value, amortised cost and historical cost.

Reserves

Income and expenditure reserve

The GCA does not hold any funds in its reserves. At the end of the financial year any levy income in excess of expenditure is adjusted as a rebate of the levy with a corresponding amount held in contract liability. The rebate is off-set against the levy invoiced in the following financial year.

Expenditure

All expenditure is recognised on an accruals basis. Purchases of individual capital items over £1,000 will be recognised in the accounts as an asset and appropriately depreciated or amortised.

The GCA does not hold any capital assets.

Staff costs

All short term staff costs payable at the end of the year and which will be paid within one year from the reporting date are included in the Statement of Net Expenditure.

Value Added Tax

Output tax does not apply to the GCA's activities and input tax is not recoverable. Irrecoverable input tax is charged to the relevant expenditure category.

Leases

Payments in relation to operating leases are calculated on a straight line basis and charged to the Statement of Net Expenditure.

Provisions and contingent liabilities

Provisions and contingent liabilities rely on the application of professional judgement, historical experience and other factors expected to influence future events. Where the likelihood of a liability crystallising is deemed probable and can be measured with reasonable certainty, a provision is recognised.

Key judgements and estimates

The GCA makes judgements and estimates in the preparation of the financial statements. There are no judgements and estimates that have a significant risk and may cause a material impact.

2. Staff numbers and related costs

The cost of staff remuneration was:

	Year ending 31-Mar-19 £	Year ending 31-Mar-19 £	Year ending 31-Mar-19 £	Year ending 31-Mar-18 £
	<i>Permanent staff</i>	<i>Other staff</i>	<i>Total</i>	<i>Total</i>
Wages and salaries	77,773	337,829	415,602	346,141
Social security costs	9,809	33,823	43,632	39,874
Pension costs	20,477	57,971	78,448	64,141
Total	<u>108,059</u>	<u>429,623</u>	<u>537,682</u>	<u>450,156</u>

- (i) The remuneration of the Adjudicator is the only permanent staff cost.
- (ii) There have been no severance payments in the year.
- (iii) Other staff includes the costs for the staff seconded to the GCA and for agency staff. Agency costs are £10,350 (2017/18: £33,704).

Average number of staff employed

The average annual number of full-time-equivalent staff (FTE), including secondees from other government departments, other organisations, staff employed on short-term contract and temporary staff, was:

	2018/19	2017/18
	FTE	FTE
Employed on references:		
Permanent staff	0.6	0.6
Other staff	5.80	4.83
	<u>6.40</u>	<u>5.43</u>

- (i) The total number of staff reported outside of the accounts is based on head count, whereas the above figures are average FTE's for the year.

3. Other expenditure

	Year ending 31-Mar-19 £	Year ending 31-Mar-18 £
Investigation into Co-operative Group Limited	1,110,261	30,415
Rentals under the terms of occupation lease	15,313	15,313
Running costs – Victoria House	10,855	10,488
Survey & Consultancy	51,570	77,323
Marketing and Promotion Materials	30,598	31,256
Legal costs	554	–
Licences	1,571	1,470
Photocopying & Printing	939	2,887
Press Cuttings	457	420
Travel, subsistence and hospitality	8,294	7,931
Staff training	4,596	6,244
Subscriptions	1,765	1,047
Corporates Services from BEIS	19,090	23,644
Office equipment (IT and other consumables)	549	1,136
Conferences & events	18,874	27,902
Arbitration	5,197	1,833
Audit fee	9,000	7,000
Accountancy fees	7,878	–
Other expenditure	855	837
Total other operating charges	<u>1,298,216</u>	<u>247,146</u>

- (i) Other expenditure relates to bank fees and postage.
- (ii) Media and communications services were provided under a consultancy contract until August 2018 but are now provided ad hoc by an agency worker.
- (iii) Accountancy fees for 2017/18 were not accrued for and actual costs were paid and accounted for in 2018/19.

4. Income

	Year ending 31-Mar-19 £	Year ending 31-Mar-18 £
Levy raised	2,166,666	2,000,000
Contract liability	(1,710,605)	(1,302,698)
	<u>456,061</u>	<u>697,302</u>
Arbitration costs recovery	53,722	–
Investigation costs recovery	1,326,115	–
Total income	<u>1,835,898</u>	<u>697,302</u>

- (i) Following adoption of IFRS 15, the presentation of income in the note has been amended to disclose the levy raised and a contract liability in respect of repayment of unspent levy at the end of the financial year. Previously, the levy was presented net in the notes to the accounts. There has been no change in the presentation of other income in the Statement of Comprehensive Net Expenditure.

5. Financial instruments

The majority of financial instruments relate to contracts to buy non-financial items in line with the GCA's expected purchases and usage requirements. The GCA was therefore exposed to little credit, liquidity or market risk. Please see the accounting policies section.

6 Receivables and other assets

Amounts falling due within one year

	As at 31-Mar-19 £	As at 31-Mar-18 £
Prepayments	9,103	7,694
Investigation receivable	1,326,115	–
	<u>1,335,218</u>	<u>7,694</u>

7. Cash

	As at 31-Mar-19 £	As at 31-Mar-18 £
Balance at 1 April	1,538,716	1,588,148
Net change in cash balances	(1,035,920)	(49,432)
Balance at 31 March 2019	502,796	1,538,716

The following balances at 31 March were held at:

Government Banking Service	502,796	1,538,716
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The GCA's bank account is an account with the Government Banking Service.

8. Other payables and liabilities

Amounts falling due within one year

	As at 31-Mar-19 £	As at 31-Mar-18 £
Contract liability	1,712,262	1,311,657
Accruals	125,752	234,753
	1,838,014	1,546,410
Analysis of other accruals		
Balances with other central government organisations	59,913	196,000
Balances with bodies external to government	65,839	38,753
	125,752	234,753

Contract liability solely relates to the unspent levy due to be returned to the retailers in the proportions in which it was contributed. The accruals relate to invoices for the secondment of staff and costs related to the investigation into Co-operative Group Limited.

9. Capital commitments

The GCA had no capital commitments (2018: none) and no other financial commitments (2018: none).

10. Commitments under leases

Commitments under leases

	As at 31-Mar-19 £	As at 31-Mar-18 £
Other leases:		
No later than one year	3,828	7,398
	<u>3,828</u>	<u>7,398</u>

The GCA has a Memorandum of Terms of Occupation with the CMA for rent and services. The minimum notice period is three months.

11. Contingent liabilities & assets

There are no contingent assets to report. In relation to contingent liabilities, the GCA previously reported that BEIS had requested a definitive view from HMRC on whether VAT should be applied on the costs of seconded staff. The GCA had estimated that VAT that could be owed on past invoices from other Government departments was £180,237. HMRC has now given its view that VAT is not applicable on seconded staff costs to the GCA and, therefore, the contingent liability did not crystallise.

12. Related party transactions

The GCA is a corporation sole sponsored by BEIS and funded through a levy on the regulated retailers. BEIS is regarded as a related party. During the year, the GCA has had various material transactions with BEIS, through the provision of payroll for the Adjudicator and procurement and contracting services.

The GCA also has related party transactions with the CMA, these related to accommodation as the GCA is co-located with the CMA. The GCA also had transactions with the Department for Culture Media and Sport, Department for Environment, Food and Rural Affairs, Housing Ombudsman Service, BEIS and the Government Legal Department for the secondment of staff.

None of the GCA members or key managerial staff undertook any material transactions with BEIS during the year, except for remuneration paid for their services. Please see the staff remuneration report for the remuneration paid to the adjudicator.

13. Events after the reporting period

There are no post-balance sheet events to report.

In accordance with the requirements of IAS10 'Events After the Reporting Period', post-Statement of Financial Position events are considered up to the date on which the Accounts are authorised for issue. This is interpreted as the same date as the date of the Certificate Report of the Comptroller and Auditor General. There are no post-Statement of Financial Position events between the balance sheet date and this date to report.

Appendix

Issues raised on Code compliance

The GCA has continued to hear from direct and indirect suppliers, trade associations, other bodies and the media about a range of issues covered by the Code and relating to large retailer practices. These issues form part of the growing GCA evidence base which will inform future action. All the issues that have been raised with the GCA since its establishment in June 2013 are reflected below.

The GCA maintains a full set of issues raised so that retailers can remain aware of what suppliers are facing and for suppliers to be aware they may not be alone in the event that they too face similar challenges. It also allows suppliers to provide the GCA with new information on issues which have not previously been raised but which are causing problems.

In order to ensure we meet the duty to preserve the confidentiality of those who provide information to the GCA, the GCA will not publish statistical information on issues raised.

Issues raised under Part 3 of the Code – Variation:

- (3) Of Supply Agreements and terms of supply
- (4) To supply chain procedures

Terms of supply varied during the contract term:

- Written supply agreements not in place
- Request for lump sum payments, often at key accounting periods
- Request for lump sums for previous periods, not previously agreed
- Retailer margin maintenance: inclusion in agreements (contracts and Joint Business Plans) of elements over which suppliers have no influence
- Attempts to alter prices paid to suppliers once agreement/contract is in place
- Request to agree to a retrospective overrider for new supply
- Use of service levels: not agreed with supplier or unclear methodology applied; and where penalties are applied for allegedly failing to meet targets
- Inclusion of terms of supply notified only after Supply Agreement has been negotiated and terms agreed (particular to new suppliers); administration charges for trading accounts; product testing; packaging/artwork charges
- Introduction of audits paid for by suppliers, e.g. ethical, traceability
- Changes to payment terms and method of payment

Issues raised under Part 4 of the Code – Prices and payments:

- (5) No delay in payments (includes unilateral deductions and deductions without notice)
- (6) No obligation to contribute to marketing costs (including artwork and design of packaging; market research; retailer hospitality)
- (7) No payments for shrinkage
- (8) No payments for wastage (unless set out in the Supply Agreement)
- (9) No payments as a condition of being a supplier (including listing fees)
- (10) Compensation for forecasting errors
- (11) No tying of third party goods and services for payment (including payment of packaging and haulage costs)

Payment terms not adhered to**Automatic deductions from invoices or trading accounts:**

- Without notice and sometimes before supplier requests payment for goods
- Without sufficient or any explanation (particularly where large sums of money are involved or where deductions are acute for smaller supplier cash flows)
- Withholding payment for entire invoice where only one element of invoice is in dispute
- Disproportionate charges for late delivery of small quantities delivered through a consolidator
- Drop and drive: deductions for alleged delivery discrepancies where there is little or no ability to check or challenge retailer's paperwork
- Not providing suppliers with thirty days to challenge any proposed deductions or deducting even if a supplier challenges the deduction

Erroneous deductions and delays in repaying:

- Lack of supplier access to decision-maker in respect of deductions, to understand the deduction and recover monies taken in error
- Delay in refund of money deducted in error due to 'failure' to hit agreed Service Level
- Third party and internal audit practices
- Repeated chasing required for agreed refunds to be processed and refunds not processed until after closure of key accounting periods
- Delay in reverting pricing systems to standard price after promotions
- Delays in changing prices, resulting in delays in resolving queries
- Individual invoices in multiple batches regularly going missing
- Charges for use of a supplier portal to query a disputed invoice
- Delay in repayment when invoice discrepancy identified and agreed

Perceived high charges for mandated packaging and artwork, where supplier believes it can secure cheaper service of comparable quality elsewhere:

- Flat rate charge for images
- Charges for artwork much higher than open market
- Numerous design changes through the year; lack of reasonable notice of change resulting in cost of excess packaging stock being borne by supplier
- Charge for packaging changes invoiced without prior agreement that this would be required
- Pressure to use 'recommended suppliers' for packaging
- Preferred supplier packaging suppliers more expensive than comparable competitors
- Cost of use of plastic crates (e.g. for fresh produce) and reasonableness of hire conditions
- Compulsory spend of marketing costs through retailer product e.g. in-house magazines

Payments for wastage:

- Request for deficit due to wastage to be covered in full by supplier

Request for listing fees:

- Requests by retailer for supplier to stop supplying specific competitors
- Fees requested not reflecting the risk of listing a new product
- Multi-channel charges – listing fees for additional channels to market for products already stocked
- Fees to access retailer order/forecasting systems
- Lump sum requested to secure arrangements in a range review

Poor forecasting accuracy:

- Disclaimers by retailers that all forecasts are prepared in good faith being added to email footers
- Lack of clarity about what is a forecast and what constitutes an order
- Lack of information about what lies behind retailers' forecasts making it difficult for suppliers to challenge whether they are prepared in good faith and with due care and attention
- No mechanism in place whereby suppliers can challenge retailer forecasts – particularly difficult for small suppliers to get access "air-time" with buyers to help improve accuracy
- Retailers' practice of ordering fresh produce daily but only forecasting on longer time scales undermines suppliers planning to get the right produce in place
- Retailers very late in confirming details of quantities and stores in forecasting for promotions
- Retailers have different systems for forecasting and ordering making it difficult to compare forward looking data with what actually happened to learn from experience and improve forecasting practice
- Excessive charges applied for short delivery, particularly when the forecast volume has been met, but the order considerably exceeded the volume forecast
- Failure by large retailers to take account of compensation for the impact of poor forecasting on suppliers, including changes to agreed distribution levels, over-ordering prior to a promotion or at the start of a listing
- Poor forecasting results in suppliers being left with over-ordered packaging
- No evidence of compensation for suppliers

Lack of choice on haulage provider:

- Where supplier has access to a cheaper alternative
- Poor service levels by haulier mandated or provided by retailers resulting in supplier penalty

Issues raised under Part 5 of the Code – Promotions:

- (12) No payments for better positioning of goods unless in relation to promotions
- (13) No requirement to predominantly fund a promotion
- (14) Not applying due care when ordering for promotions

Attempted charges for better shelf position not related to a promotion:

- Payments for Category Captaincy and range reviews
- Better positioning being negotiated in response to retailer requests for investment

Over-ordering at promotional price:

- Over-buying at discounted price agreed for promotions linked to poor forecasting practice

Changes to promotions at short notice or not actioning agreed promotions:

- Distribution, price, quantities, timing and funding

Request to fund a promotion:

- Concern that impact of over-buying at discounted prices means suppliers end up funding promotions

Issues raised under Part 6 of the Code – Other duties:

- (15) No unjustified charges for consumer complaints
- (16) Not meeting duties in relation to De-listing (*including giving commercial reasons for the decision and reasonable notice*)
- (17) Not escalating concerns over breaches of the Code to the Senior Buyer

Lack of transparency on customer complaint charges:

- Different flat fees charged which do not appear to relate to retailer's cost of handling complaints

Unclear large retailer De-listing practice:

- Different perspectives (retailers compared to suppliers) on reasonable notice periods
- Short notice periods may not take account of supplier circumstances
- De-listing following supplier investment to meet retailer demands
- De-listing following competitor lump sum payment to obtain business and to increase share of shelf space
- Compensation for short notice De-listing decisions do not take account of all associated costs to the supplier
- Standard De-listing notice periods not in line with GCA published interpretive guidance
- Suppliers being asked to identify competitor SKUs for De-listing

