



Groceries Code Adjudicator

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By email
Retailer CEOs

09 April 2020

Dear CEO,

I am writing to you because I understand that in their discussions with DEFRA and the CMA, some retailers have raised concerns about compliance with the Groceries Supply Code of Practice (the Code) during the current trading conditions.

I want to reassure you, as no doubt your Code Compliance Officers (CCOs) are also doing, that there is considerable flexibility already in the Code, particularly as to what constitutes reasonable notice of De-listing or variation of supply agreements. I have always resisted giving any figure in relation to notice periods and have instead issued guidance setting out the factors retailers should consider when determining what is reasonable in the circumstances of any particular supply relationship. What is reasonable is always to be determined on a case-by-case basis bearing in mind all relevant factors. Because of the current challenges, I felt the need to restate this and on 16 March I wrote to CCOs and on the following day published on my website a position statement which made clear that "Notice periods may need to be short to address challenges at the earliest possible opportunity. Suppliers should not wait to raise issues with retailers".

Earlier this week I spoke to every CCO of the 13 retailers I regulate. Not one retailer has had a supplier either raise an issue directly with the CCO or ask for a buyer's decision to be escalated as a result of retailer decisions or actions being taken at this time. Should issues be raised in the future relating to this period, they will of course be dealt with on a case-by-case basis. If an issue has not been raised at the time the retailer's decision was taken, that will be taken into account in any dispute which comes to me for arbitration.

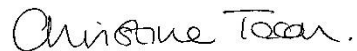
I was pleased to hear from all CCOs that there has been extremely close working between retailers and suppliers and a considerable increase in communication. This has been echoed by suppliers who I have spoken to. One described co-operation with the retailers as excellent and said that "GSCOP isn't on the agenda". Over these initial few weeks, for the vast majority of suppliers, their interests have been aligned with those of retailers to get the groceries that consumers want onto the shelves.

All CCOs assured me they have been working very closely with the buying teams, ensuring that the Code is taken into account when making decisions at great speed. They have been offering assistance and also ensuring that everything is being documented so there is a trail

if queries are raised later. They were unanimously grateful for the clarification issued on 16 March.

I wanted to reassure you in case it was in any doubt, that the Code provides the flexibility you need now to maintain groceries supply to the consumer; and in case it needed stating, that I do not intend to take enforcement action against businesses that are working collaboratively in the best interests of the consumer.

Yours sincerely,

A handwritten signature in black ink that reads "Christine Tacon". The script is cursive and fluid.

Christine Tacon
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Annex: GCA position statement on current supply arrangements (published 17 March 2020)

The GCA is aware of the considerable challenges facing retailers and suppliers as they work together to ensure customers have access to food and other essentials during the COVID-19 outbreak.

The GCA is also aware of co-ordinated work across government to respond to the situation. Nothing in this position statement is intended to interfere with that in any way.

The GCA is nonetheless able to offer the following guiding principles to assist retailers and suppliers deliver continuity of supply to consumers, as far as this remains possible given significant pressures on staffing and some customer buying habits:

- Nothing in the Groceries Supply Code of Practice (the Code) requires any regulated retailer to break any other legal requirement. The Code should be read compatibly with all other legal obligations placed on regulated retailers.
- The GCA cannot offer a view as to whether current circumstances amount to force majeure.
- From a practical point of view, retailers will want to agree a way with suppliers to meet the most pressing objectives of the situation as it develops. The GCA would expect all parties to work together constructively to achieve this.
- Examples include effective communication on both sides, and an appreciation that e.g. reasonable notice provisions in the Code will need to be considered in light of the rapidly changing situation. Notice periods may need to be short to address challenges at the earliest possible opportunity. Suppliers should not wait to raise issues with retailers.