



Groceries Code
Adjudicator

Inaugural Groceries Code Adjudicator Conference

Monday 23rd June 2014

Queen Elizabeth II Conference Centre
Broad Sanctuary, Westminster, London SW1P 3GG

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Contact the GCA at:

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Email: enquiries@gca.gsi.gov.uk
Telephone: **0207 271 0221**

See the GCA website for copies of presentations, our annual report and a final delegate list.

Conference programme

23rd June 2014

<p>9:00am – 9:30am</p>	<p>Registration Tea and coffee will be available</p>
<p>9:30am – 10:00am</p> <p>INTRODUCTION</p> <p>Christine Tacon Groceries Code Adjudicator</p>	<p>Introduction to the Groceries Code Adjudicator The Adjudicator, appointed to oversee compliance with the Groceries Supply Code of Practice (the Code), formally welcomes everyone and explains her role</p>
<p>10:00am – 10:20am</p> <p>PRESENTATION</p> <p>Andrew McCarthy Chairman British Brands Group</p>	<p>Role of the Trade Association The Chairman of British Brands Group explains how trade associations support suppliers to raise Code issues with the GCA and retailers</p>
<p>10:20am – 11:00am</p> <p>PRESENTATION</p> <p>Steven Butts Wm Morrison Supermarkets plc</p> <p>David Ward Tesco plc</p>	<p>Role of the Code Compliance Officer Two Code Compliance Officers (CCO) discuss their experience of being a CCO</p>
<p>11:00am – 11:30am</p> <p>PRESENTATION</p> <p>Stephan Shakespeare Chief Executive Officer YouGov</p>	<p>Sector research – the results YouGov's CEO presents findings from the GCA-commissioned research to explore and determine the views, experiences, attitudes and expectations of suppliers in relation to the Code</p>
<p>11:30am – 12:00pm</p>	<p>Break Tea and coffee will be available</p>
<p>12:00pm – 12:30pm</p> <p>PRESENTATION</p> <p>Christine Tacon Groceries Code Adjudicator</p>	<p>The GCA annual report The Adjudicator reports on her first year and sets out plans for the coming year</p>
<p>12:30pm – 1:00pm</p> <p>PANEL DISCUSSION</p>	<p>Question & answer session Delegates have a chance to put questions to the speakers</p>
<p>1:00pm – 2:00pm</p>	<p>Lunch A buffet lunch and refreshments will be available</p>

2:00pm – 2:30pm	PRESENTATION	Compliance – learning from the experts
	Louise Ward Head of Passenger and Public Safety Network Rail	Network Rail talks about complying with Health and Safety regulations, drawing parallels with Code compliance
2:30pm – 2:45pm	INTRODUCTION TO WORKSHOPS	Breakout sessions
	Christine Tacon Groceries Code Adjudicator	Introduction to the workshop sessions
2:45pm – 3:30pm		Workshop session one
3:30pm – 4:00pm		Break Tea and coffee will be available
4:00pm – 4:45pm		Workshop session two
4:45pm – 5:00pm	PLENARY SESSION	Close of day
	Christine Tacon Groceries Code Adjudicator	The Adjudicator reflects on the day
5:00pm – 7:00pm		Drinks reception

WORKSHOP A	The enforcement of the Code
Angela Latta Head of Policy & Operations	Members of the GCA team host an interactive session
Helen Gordon-Lee Chief Legal Adviser, GCA	
WORKSHOP B	Genesis of the Code
Bob MacDowall Manager Market & Remedies, Competition and Markets Authority	The CMA explains the formation of the Code and the wider Groceries (Supply Chain Practice) Market Investigation Order
WORKSHOP C	Evaluating success – survey follow up
Stephan Shakespeare Chief Executive Officer YouGov	YouGov's CEO hosts an interactive discussion on the research results
WORKSHOP D	Discussion on supplier issues under the Code
Trade Associations	Session one: Provision Trade Federation and British Brands Group Session two: Food and Drink Federation and National Farmers' Union

Supplementary programme

24th June 2014

Whilst the conference concludes on 23rd June 2014, we are aware that some delegates are staying overnight. Therefore we have arranged additional events for 24th June 2014.

If you have previously booked for one of these events, further details will be provided to you at registration.

10:00am – 4:00pm
Steven Butts

Code Compliance Officer
Wm Morrison Supermarkets plc

Visit to Wm Morrison Supermarkets plc Regional Distribution Centre

Wm Morrison Supermarkets plc will host a visit to their newest Regional Distribution Centre in Sittingbourne, Kent.

Transport to and from a central London location and a light lunch will be provided

10:00am – 12:00pm

Tour of the Palace of Westminster

A Member of Parliament will host a tour of the Palace of Westminster (Houses of Parliament)

10:00am – 4:00pm
Christine Tacon

Groceries Code Adjudicator
& team

Surgery sessions

The Adjudicator and her team are holding 30-minute drop-in sessions, at the GCA Office, between 10:00 and 16:00 on Tuesday 24th June 2014.

GCA office address:
2nd Floor, Victoria House, Southampton Row,
London WC1B 4DA

Speakers' biographies



Christine Tacon CBE

The Groceries Code
Adjudicator

Christine was appointed as the first Groceries Code Adjudicator in 2013 to monitor and enforce the Groceries Supply Code of Practice.

Christine is working to achieve behaviour change and a more equitable relationship between retailers and suppliers through persuasion and the promotion of good practices. In order to do this she has focused on building strong contacts with retailers and suppliers and has held regular meetings with the retailers' Code Compliance Officers to exchange information and raise issues brought to her attention.

Christine's professional background is as a Chartered Engineer with 12 years' experience in sales and marketing of fast moving consumer goods. Her early career was with Coats Viyella, Mars, Anchor and Vodafone. For 11 years until 2012 she ran the Co-operative Group's farming business, the largest in the UK. She was awarded a CBE for services to agriculture in 2004.

She remains deeply interested in rural issues and is a governor of Harper Adams University as well as being involved in agricultural technology start-ups. Other current roles include being a non-Executive Director of both the Met Office and Anglia Farmers.



Andrew McCarthy

Chairman,
British Brands Group

Andrew is a graduate of Durham University and was a partner in a City law firm before joining Procter & Gamble UK in 1986. He spent seven years as General Counsel of its Fabric & Home Care division and retired at the end of 2011 as UK General Counsel. He was also Director of External Relations with responsibility for brand PR, corporate communications and regulatory matters.

Andrew has served on the Council of the British Brands Group, the boards of the UK Cleaning Products Industry Association, the Association des Industries de Savonnier et Etretien, the Broadcasting Code of Advertising Committee and the Advertising Standards Board of Finance and as Chairman of the Cosmetic, Toiletry & Perfumery Association.

He lives in London with wife Kate, has four daughters, is active in local politics and is a keen skier.



Steven Butts

Head of Corporate
Responsibility & Code
Compliance Officer,
Wm Morrison
Supermarkets plc

A solicitor by profession, Steven started his career as a media lawyer at a City of London law firm. He later moved into commercial practice in his home city of Birmingham with a diverse client base including major organisations in the automotive industry, media and high profile professional sports. He moved from commercial legal practice to corporate responsibility development, setting up programmes at two major UK law firms before moving to the food retail sector and joining Morrisons in 2009.

Steven now leads Morrisons' corporate responsibility programme which is embedded into the business with a governance structure at Main PLC Board level. The programme is founded on active engagement with all Morrisons key stakeholder groups including NGOs, government, regulators, suppliers, customers, colleagues and investors. Morrisons were named Most Sustainable (Multiple) Retailer of the Year in 2013 in the Retail Industry Awards.

Steven was appointed GSCOP Code Compliance Officer for Morrisons in 2012.

On a personal level, Steven has an eclectic mix of awards for his work over his career including Birmingham Law Society Pro Bono Lawyer of the Year, Black Women in Business Corporate Leadership and was named Regional Ambassador for the West Midlands in 2005 for HRH Prince of Wales, largely based on his work tackling social exclusion and homelessness.



David Ward

Regulatory, Ethics &
Compliance Director and
Code Compliance Officer,
Tesco plc

David was appointed Regulatory, Ethics & Compliance Director in May 2013, responsible for the Group-wide development and operation of the Tesco corporate compliance programme, including the company's Code of Business Conduct.

David and his team have specific accountability in the areas of privacy, competition law and anti-bribery compliance.

David acts as the Tesco GSCOP Code Compliance Officer.

Prior to his current role, David served as UK & ROI Legal Director at Tesco having joined from Shearman & Sterling as Senior Counsel for Competition Law, after starting his career as a Lawyer at Hogan Lovells.

**Stephan Shakespeare**

Chief Executive Officer,
YouGov

Stephan co-founded YouGov in 2000. One of the pioneers of internet research, Stephan has been the driving force behind YouGov's innovation-led strategy.

Stephan also founded PoliticsHome.com and ConservativeHome.com. He was chair of the Data Strategy Board for the Department for Business, Innovation and Skills 2012-2013 and led the Shakespeare Review of Public Sector Information. He is currently a member of the Government's Public Sector Transparency Board, a trustee of the National Portrait Gallery and Chairman of Flooved Ltd.

**Louise Ward**

Head of Passenger
and Public Safety,
Network Rail

Louise Ward is a Chartered Health and Safety Professional with over 14 years' experience in a variety of sectors including; nuclear power; newspaper production; investment banking; facilities management; manufacturing and the Civil Service, and is currently Head of Passenger and Public Safety at Network Rail.

As well as being a practising health and safety specialist, Louise has been involved in the development of legislation, guidance material and regulatory policy. She has a particular interest in professional development and supports a number of initiatives in this area. Louise is a member of the judging panel for the SHP IOSH Awards and the RoSPA Awards, and also writes for the Safety and Health Practitioner.

Delegate list

Organisation		
Dino	Adriano	
Ivan	Akinin	Lornamead (UK) Ltd
Nicola	Alexander	Ocado Ltd
Angus	Allan	Indulgence Patisserie Ltd
Imogen	Allen-Back	Addleshaw Goddard LLP
Paul	Anderson	Nestle UK Ltd
Chris	Anker	Church of England
Anthony	Appleton	Procter & Gamble UK
Meltem	Ay	GlaxoSmithKline
Robert	Bailey	Terleski Designs Ltd
Alex	Baker	Fingleton Associates
Rona	Bar-Isaac	Addleshaw Goddard LLP
David	Barling	Centre for Food Policy, City University London
Adrian	Barlow	English Apples and Pears Ltd
James	Barnes	Unilever UK Ltd
Steve	Barnes	Food & Drink Federation
Jennifer	Barnett	Iceland Foods Ltd
Martin	Beasley	IBM (DemandTec)
Lucy	Beaumont	Unilever UK Ltd
Michael	Bell	Northern Ireland Food and Drink Association
Richard	Bilodeau	Competition Bureau (Canada)
Anne	Blakey	Wm Morrison Supermarkets plc
Huma	Blunt	Reckitt Benckiser
Ashley	Borthwick	Bond Dickinson
John	Breach	British Independent Fruit Growers' Association
Patrik	Bures	Lidl UK GmbH
Jayne	Burrell	Iceland Foods Ltd
Tony	Burton	Bel UK Ltd
Steven	Butts	Wm Morrison Supermarkets plc
Ray	Cahill	Associated British Foods plc
Carlo	Calabria	Mondelez International
Sarah	Calcutt	Partners in Produce
Stuart	Caller	Korbond Industries Ltd
Elizabeth	Campetti	Coca-Cola Enterprises

Organisation		
Clare	Cheney	Provision Trade Federation
Jenny	Chryss	BBC
John	Clegg	PricewaterhouseCoopers Legal LLP
Nick	Cole	IBM
Rob	Coleridge	Thomas Eggar LLP
John	Coll	Kantar World Panel
James	Courtenay	Groceries Code Adjudicator
Adele	Cowsill	Mondelez International
Carl	Creswell	Department for Business, Innovation & Skills
Nancy	Croitoru	Food & Consumer Products of Canada
Paddy	Cronin	Nairns Oatcakes Ltd
Richard	Crowhurst	The Vegetable Farmer Magazine
Emma	Dahl	United Biscuits (UK) Ltd
Helen	Darracott	Proprietary Association of Great Britain
Julian	Davies	J Sainsbury plc
Gary	Dawson	Australian Food and Grocery Council
Robin	Dawson	Poupart Ltd
Henk	de Jong	Embassy of the Kingdom of the Netherlands
Mike	Dennis	Tulip Ltd
Sheree	Dodd	Groceries Code Adjudicator
Linsey	Dommett	Yoplait UK Ltd
Joel	Durkin	Farmers Guardian
Don	Edwards	Don Edwards & Associates Ltd
Bjorn	Eidem	Federation of Norwegian Food, Agriculture & Forestry Enterprises
Larissa	Ensink	Ministry of Economic Affairs (Netherlands)
John	Eustace	ReSharpen Ltd
Elaine	Farrell	The Irish Farmers' Association
Martyn	Fisher	Fresh Produce Journal
Jose Miguel	Flavian Erlac	GM&Co
Emma	Forde	BBC
Stuart	Forsyth	FAGE UK Ltd
Paul	Garner	Dunhills Haribo (Pontefract) plc
David	George	Bristows LLP
Kerry	Gilbert	European Parliament
Kathryn	Gilbertson	Greenwoods Solicitors LLP
John	Giles	Promar International Ltd
Max	Gillibrand	Marks & Spencer plc

Organisation		
Hildegunn	Gjengedal	Norwegian Farmers Union
Randi Ledaal	Gjertsen	Federation of Norwegian Agricultural Co-operatives
Michael	Gledhill	Wragge Lawrence Graham & Co
Terry	Godfrey	Burtons Biscuits
Fiona	Gooch	Traidcraft
Caroline	Gordon	Maxxium UK Ltd
Helen	Gordon-Lee	Groceries Code Adjudicator
Alastair	Gorrie	(Solicitor)
Juliet	Grain	Procter & Gamble UK
James	Green	G's Fresh Ltd
Lee	Greenbury	Muller UK & Ireland Group LLP
David	Greene	Edwin Coe LLP
Bridget	Groarke	Co-operative Group Ltd
Oli	Haenlein	Meat Trades Journal
Hana	Hanslianova	Office for the Protection of Competition (Czech Republic)
Alice	Hardman	Tulip Ltd
Denise	Harris	Wm Morrison Supermarkets plc
Ingebjørg	Harto	Confederation of Norwegian Enterprise
Helge	Hasselgard	DLF Norway
Jenny	Hendricks	Groceries Code Adjudicator
Amy	Hennessy	Mars Petcare UK
James	Higgins	Diageo plc
Dominic	Higham	Clarion co. Ltd
Heather	Hodgson	Asda Stores Ltd
Richard	Hollingdale	Joseph Heler Ltd
Peel	Holroyd	Royal Agricultural University
Philip	Hudson	National Farmers' Union
Ivan	Jefford	Mackie's of Scotland
Tim	Jones	Stateside Foods Ltd
Fadime	Kaya	GlaxoSmithKline
Emer	Kelly	Tesco Stores Ltd
Denise	Kennedy	Associated British Foods plc
Jonathan	Kittow	Simply Supply Chain
Andrew	Knight	Typhoo Tea Limited
Katharina	Landbrecht	Lidl UK GmbH
Tom	Lander	National Farmers' Union
Angela	Latta	Groceries Code Adjudicator

Organisation		
Simon	Lester	Dendron
Richard	Lewis	Department for Business, Innovation & Skills
Katharina	Lichtenberg	Lidl UK GmbH
Hannah	Livingston	Firecrest
Jonas	Loevdal	Norwegian Confederation of Trade Unions
David	Lowe	Wragge Lawrence Graham & Co
Bob	MacDowall	Competition and Markets Authority
Callum	Macrae	Firecrest
Michelle	Maddock	Mondelez International
Kay	Majid	Tesco Stores Ltd
Al	Mangan	Addleshaw Goddard LLP
Richard	Martin	Pernod Ricard UK
Gavin	Matthews	Bond Dickinson LLP
Andrew	McCarthy	British Brands Group
Julian	Miezitis	Associated British Foods plc
Brian	Moore	EMR-Namnews Ltd
Philip	Morley	British Tomato Growers' Association
Graeme	Morrison	Asda Stores Ltd
Jurian	Muller	Ministry of Economic Affairs (Netherlands)
Chip	Nazmi	Kimberly-Clark Europe
James	Nicholson	Member of the European Parliament
John	Noble	British Brands Group
Chris	Oliver	National Association of Bodyshops
Andrew	Opie	British Retail Consortium
Klaas Johan	Osinga	LTO Nederland
Stuart	Padgham	Thomas Eggar LLP
Anusha	Paulraj	J Sainsbury plc
Line Gaare	Paulsen	Grocery Manufacturers of Norway
Julie	Plant	Emmi UK Ltd
Greet	Pluymers	VRT (Belgian public Television) Panorama
Andrea	Pokorna	Office for the Protection of Competition (Czech Republic)
Gordon	Polson	Federation of Bakers
Alan	Prior	Lactalis Nestle UK Ltd
Dafydd	Pugh	J Sainsbury plc
Paula	Quinn	Department for Business, Innovation & Skills
Michael	Reddy	Syndicus Ltd
Katherine	Rich	New Zealand Food & Grocery Council

Organisation		
Ian	Richards	GlaxoSmithKline
David	Rifkin	Adams Foods Limited
Mark	Riley	Maxxium UK Ltd
Thomas	Riley	Burton's Foods Ltd
Stephen	Rossides	British Meat Processors Association
Wayne	Rowlatt	JZ Flowers International Ltd
Kate	Rowley	Waitrose Ltd
Gary	Sands	Canadian Federation of Independent Grocers
Milena	Santi	Britvic plc
Stephan	Shakespeare	YouGov
Alasdair	Sparrow	Adams Foods Ltd
Ben	Sproson	Emmi UK Ltd
Rob	Steadman	Marks and Spencer plc
Einar	Steensnaes	Norwegian Ministry of Agriculture and Food
Ivo	Stormonth-Darling	GlaxoSmithKline
Marie-Claire	Strawbridge	Freshfields Bruckhaus Deringer
Nicky	Strong	Bond Dickinson LLP
Duncan	Swift	Moore Stephens LLP
Christine	Tacon	Groceries Code Adjudicator
Angela	Taylor	R&R Ice Cream
Stephen	Taylor	A.G. Barr plc
Chris	Thiede	Nestle UK Ltd
Sian	Thomas	Fresh Produce Consortium
Andrew	Tozer	J Sainsbury plc
Sarah	Twaites	Tesco Stores Ltd
Eva	Undheim	Nationen (Norwegian newspaper)
Paul	van Reesch	Coca-Cola Enterprises
David	Vidilini	Korbond Industries
Scott	Walker	National Farmers' Union Scotland
David	Ward	Tesco Stores Ltd
Jack	Ward	British Growers Association
Jonathan	Ward	Aldi Stores Ltd
Louise	Ward	Network Rail
Gary	Walters	Hico Group
Lars Iver	Wiig	Norwegian Food, Beverage and Allied Workers Union
Sue	Williams	Hargreaves Plants Limited
Phillip	Willmser	Co-operative Group Ltd

The Groceries Supply Code of Practice

(as published in The Groceries (Supply Chain Practices) Market Investigation Order 2009)

Part 1 – Interpretation

1. Interpretation

(1) In this Code:

Buying Team means those employees of a Retailer from time to time whose role includes at least one of the following: (a) direct involvement in buying Groceries for resale (b) (excluding the role of the Code Compliance Officer) the interpretation and application of the provisions of the Code or this Order (c) immediate management responsibility for any or all of those employees described in (a) and (b) above

Code Compliance Officer means the person from time to time appointed in accordance with Article 9(1) of the Order

De-list means to cease to purchase Groceries for resale from a Supplier, or significantly to reduce the volume of purchases made from that Supplier. Whether a reduction in volumes purchased is 'significant' will be determined by reference to the amount of Groceries supplied by that Supplier to the Retailer, rather than the total volume of Groceries purchased by the Retailer from all of its Suppliers

Groceries means food (other than that sold for consumption in the store), pet food, drinks (alcoholic and non-alcoholic, other than that sold for consumption in the store), cleaning products, toiletries and household goods, but excludes petrol, clothing, DIY products, financial services, pharmaceuticals, newspapers, magazines, greetings cards, CDs, DVDs, videos and audio tapes, toys, plants, flowers, perfumes, cosmetics, electrical appliances, kitchen hardware, gardening equipment, books, tobacco and tobacco products, Grocery shall be construed accordingly

Order means The Groceries (Supply Chain Practices) Market Investigation Order 2009

Payment or Payments means any compensation or inducement in any form (monetary or otherwise) and includes more favourable contractual terms

Primary Buyer means, in relation to any individual Supplier, the employee or employees within a Retailer's Buying Team who are responsible from time to time for the day-to-day buying functions of the Retailer in respect of that individual Supplier

Promotion means any offer for sale at an introductory or a reduced retail price, whether or not accompanied by some other benefit to consumers that is in either case intended to subsist only for a specified period

Reasonable Notice means a period of notice, the reasonableness of which will depend on the circumstances of the individual case, including:

- the duration of the Supply Agreement to which the notice relates, or the frequency with which orders are placed by the Retailer for relevant Groceries
- the characteristics of the relevant Groceries including durability, seasonality and external factors affecting their production;
- the value of any relevant order relative to the turnover of the Supplier in question
- the overall impact of the information given in the notice on the business of the Supplier, to the extent that this is reasonably foreseeable by the Retailer

Retailer means any person carrying on a business in the UK for the retail supply of Groceries

A Retailer will ‘Require’ particular actions on the part of a Supplier if the relevant Supplier does not agree, whether or not in response to a request or suggestion from the Retailer, to undertake an action in response to ordinary commercial pressures. Where those ordinary commercial pressures are partly or wholly attributable to the Retailer, they will only be deemed to be ordinary commercial pressures where they do not constitute or involve duress (including economic duress), are objectively justifiable and transparent and result in similar cases being treated alike. The burden of proof will fall on the Retailer to demonstrate that, on the balance of probabilities, an action was not Required by the Retailer

Senior Buyer means, in relation to any individual Supplier, an employee (or employees) within a Retailer’s Buying Team, who manages the Primary Buyer (or Primary Buyers) for that Supplier (or is otherwise at a higher level than the Primary Buyer within the management structure of the Retailer)

Shrinkage means losses that occur after Groceries are delivered to a Retailer’s premises and arise due to theft, the Groceries being lost or accounting error

Supplier means any person carrying on (or actively seeking to carry on) a business in the direct supply to any Retailer of Groceries for resale in the United Kingdom, and includes any such person established anywhere in the world, but excludes any person who is part of the same group of interconnected bodies corporate (as defined in section 129(2) of the Enterprise Act 2002) as the Retailer to which it supplies

Supply Agreement means any agreement which must be recorded in writing pursuant to Article 6(1) of the Order.

Wastage means Groceries which become unfit for sale subsequent to them being delivered to Retailers.

(2) Compliance with the Code does not exclude any person from, or restrict the application of, the Competition Act 1998.

Part 2 – Fair dealing

2. Principle of fair dealing

A Retailer must at all times deal with its Suppliers fairly and lawfully. Fair and lawful dealing will be understood as requiring the Retailer to conduct its trading relationships with Suppliers in good faith, without distinction between formal or informal arrangements, without duress and in recognition of the Suppliers’ need for certainty as regards the risks and costs of trading, particularly in relation to production, delivery and payment issues.

PART 3 – Variation

3. Variation of Supply Agreements and terms of supply

(1) Subject to paragraph 3(2), a Retailer must not vary any Supply Agreement retrospectively, and must not request or require that a Supplier consent to retrospective variations of any Supply Agreement.

(2) A Retailer may make an adjustment to terms of supply which has retroactive effect where the relevant Supply Agreement sets out clearly and unambiguously:

- any specific change of circumstances (such circumstances being outside the Retailer's control) that will allow for such adjustments to be made; and
- detailed rules that will be used as the basis for calculating the adjustment to the terms of supply.

(3) If a Retailer has the right to vary a Supply Agreement unilaterally, it must give Reasonable Notice of any such variation to the Supplier.

4. Changes to supply chain procedures

A Retailer must not directly or indirectly Require a Supplier to change significantly any aspect of its supply chain procedures during the period of a Supply Agreement unless that Retailer either:

- gives Reasonable Notice of such change to that Supplier in writing; or
- fully compensates that Supplier for any net resulting costs incurred as a direct result of the failure to give Reasonable Notice.

PART 4 – Prices and payments

5. No delay in Payments

A Retailer must pay a Supplier for Groceries delivered to that Retailer's specification in accordance with the relevant Supply Agreement, and, in any case, within a reasonable time after the date of the Supplier's invoice.

6. No obligation to contribute to marketing costs

Unless provided for in the relevant Supply Agreement between the Retailer and the Supplier, a Retailer must not, directly or indirectly, Require a Supplier to make any Payment towards that Retailer's costs of:

- buyer visits to new or prospective Suppliers
- artwork or packaging design
- consumer or market research
- the opening or refurbishing of a store or
- hospitality for that Retailer's staff

7. No Payments for shrinkage

A Supply Agreement must not include provisions under which a Supplier makes Payments to a Retailer as compensation for Shrinkage.

8. Payments for Wastage

A Retailer must not directly or indirectly Require a Supplier to make any Payment to cover any Wastage of that Supplier's Groceries incurred at that Retailer's stores unless:

- such Wastage is due to the negligence or default of that Supplier, and the relevant Supply Agreement sets out expressly and unambiguously what will constitute negligence or default on the part of the Supplier; or
- the basis of such Payment is set out in the Supply Agreement.

9. Limited circumstances for Payments as a condition of being a Supplier

A Retailer must not directly or indirectly Require a Supplier to make any Payment as a condition of stocking or listing that Supplier's Grocery products unless such Payment:

- is made in relation to a Promotion; or
- is made in respect of Grocery products which have not been stocked, displayed or listed by that Retailer during the preceding 365 days in 25 per cent or more of its stores, and reflects a reasonable estimate by that Retailer of the risk run by that Retailer in stocking, displaying or listing such new Grocery products.

10. Compensation for forecasting errors

(1) A Retailer must fully compensate a Supplier for any cost incurred by that Supplier as a result of any forecasting error in relation to Grocery products and attributable to that Retailer unless:

(a) that Retailer has prepared those forecasts in good faith and with due care, and following consultation with the Supplier; or (b) the Supply Agreement includes an express and unambiguous provision that full compensation is not appropriate.

(2) A Retailer must ensure that the basis on which it prepares any forecast has been communicated to the Supplier.

11. No tying of third party goods and services for Payment

(1) A Retailer must not directly or indirectly Require a Supplier to obtain any goods, services or property from any third party where that Retailer obtains any Payment for this arrangement from any third party, unless the Supplier's alternative source for those goods, services or property:

- fails to meet the reasonable objective quality standards laid down for that Supplier by that Retailer for the supply of such goods, services or property; or
- charges more than any other third party recommended by that Retailer for the supply of such goods, services or property of an equivalent quality and quantity.

PART 5 – Promotions

12. No Payments for better positioning of goods unless in relation to Promotions

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

13. Promotions

(1) A Retailer must not, directly or indirectly, Require a Supplier predominantly to fund the costs of a Promotion.

(2) Where a Retailer directly or indirectly Requires any Payment from a Supplier in support of a Promotion of one of that Supplier's Grocery products, a Retailer must only hold that Promotion after Reasonable Notice has been given to that Supplier in writing. For the avoidance of doubt, a Retailer must not require or request a Supplier to participate in a Promotion where this would entail a retrospective variation to the Supply Agreement.

14. Due care to be taken when ordering for Promotions

(1) A Retailer must take all due care to ensure that when ordering Groceries from a Supplier at a promotional wholesale price, not to over-order, and if that Retailer fails to take such steps it must compensate that Supplier for any Groceries overordered and which it subsequently sells at a higher non-promotional retail price.

(2) Any compensation paid in relation to paragraph 14(1) above will be the difference between the promotional wholesale price paid by the Retailer and the Supplier's non-promotional wholesale price.

(3) A Retailer must ensure that the basis on which the quantity of any order for a Promotion is calculated is transparent.

PART 6 – Other duties

15. No unjustified payment for consumer complaints

(1) Subject to paragraph 15(3) below, where any consumer complaint can be resolved in store by a Retailer refunding the retail price or replacing the relevant Grocery product, that Retailer must not directly or indirectly Require a Supplier to make any Payment for resolving such a complaint unless:

- the Payment does not exceed the retail price of the Grocery product charged by that Retailer; and
- that Retailer is satisfied on reasonable grounds that the consumer complaint is justifiable and attributable to negligence or default or breach of a Supply Agreement on the part of that Supplier.

(2) Subject to paragraph 15(3) below, where any consumer complaint cannot be resolved in store by a Retailer refunding the retail price or replacing the relevant Grocery product, that Retailer must not directly or indirectly Require a Supplier to make any Payment for resolving such a complaint unless:

- the Payment is reasonably related to that Retailer's costs arising from that complaint;
- that Retailer has verified that the consumer complaint is justifiable and attributable to negligence or default on the part of that Supplier;
- a full report about the complaint (including the basis of the attribution) has been made by that Retailer to that Supplier; and
- the Retailer has provided the Supplier with adequate evidence of the fact that the consumer complaint is justifiable and attributable to negligence or default or breach of a Supply Agreement on the part of the Supplier.

(3) A Retailer may agree with a Supplier an average figure for Payments for resolving customer complaints as an alternative to accounting for complaints in accordance with paragraphs 15(1) and 15(2) above. This average figure must not exceed the expected costs to the Retailer of resolving such complaints.

16. Duties in relation to De-listing

(1) A Retailer may only De-list a Supplier for genuine commercial reasons. For the avoidance of doubt, the exercise by the Supplier of its rights under any Supply Agreement (including this Code) or the failure by a Retailer to fulfil its obligations under the Code or this Order will not be a genuine commercial reason to De-list a Supplier.

(2) Prior to De-listing a Supplier, a Retailer must:

- provide Reasonable Notice to the Supplier of the Retailer's decision to De-list, including written reasons for the Retailer's decision. In addition to the elements identified in paragraph 1(1) of this Code, for the purposes of this paragraph 'Reasonable Notice' will include providing the Supplier with sufficient time to have the decision to De-list reviewed using the measures set out in paragraphs 16(2)(b) and 16(2)(c) below;
- inform the Supplier of its right to have the decision reviewed by a Senior Buyer, as described in paragraph 17 of this Code; and
- allow the Supplier to attend an interview with the Retailer's Code Compliance Officer to discuss the decision to De-list the Supplier.

17. Senior Buyer

(1) A Retailer's Senior Buyer will, on receipt of a written request from a Supplier, review any decisions made by the Retailer in relation to the Code or this Order.

(2) A Retailer must ensure that a Supplier is made aware, as soon as reasonably practicable, of any change to the identity and/or contact details of the Senior Buyer for that Supplier.

Notes

