

A view from the Adjudicator

For industry insider Christine Tacon the decision to become the first UK Groceries Code Adjudicator in 2013 arose from her experiences of the relationship between retailers and suppliers and a desire to see major change.

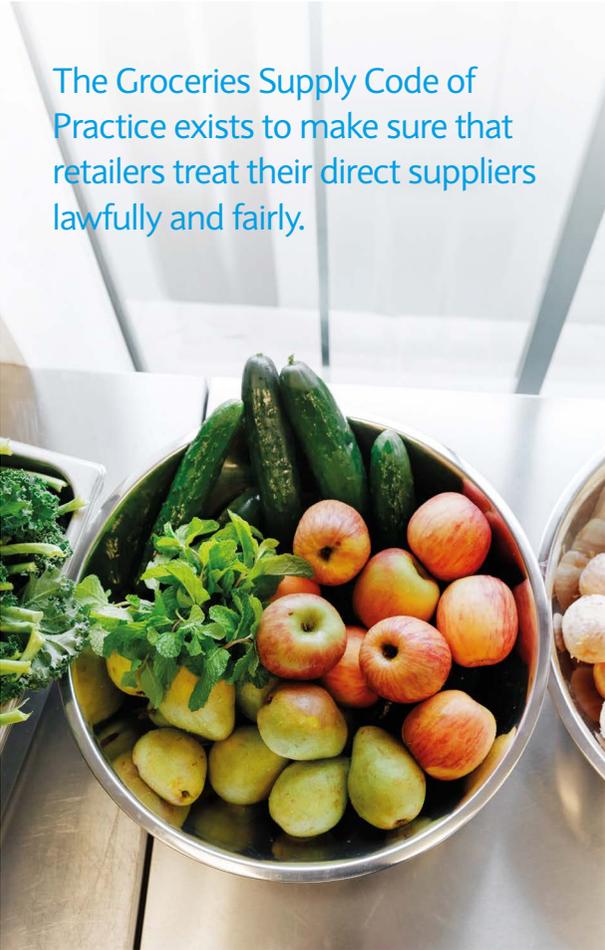
As a production engineer by trade and head of the Co-operative Group's farming business for over a decade, I was frustrated by the inefficiencies in the supply chain that stemmed from the unequal relationship between retailers and suppliers. Too often retailers would say "jump" and suppliers would simply ask "how high?".

I took the role of UK Groceries Code Adjudicator in 2013 to help level the playing field, overseeing the implementation of the Groceries Supply Code of Practice, which exists to make sure that retailers treat their direct suppliers lawfully and fairly.

A chance to get it right

While retailers have had to comply with The Groceries (Supply Chain Practices) Market Investigation Order, which contains the Code, since 2009, it was not until Parliament passed the Act to create the Adjudicator role that the industry took serious notice. The subsequent decision to give the Adjudicator the power to fine retailers up to 1% of turnover for breaching the Code has really concentrated minds.

My year-long investigation into Tesco in 2015 was a gamechanger in terms of highlighting the Adjudicator's statutory power to obtain information from retailers and suppliers, get to the bottom of a complex issue and report on it with binding recommendations that make a real difference.



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But investigations are long and time-consuming procedures and I have deliberately adopted a collaborative approach to achieve reform. I do this by raising issues with the retailers either individually or collectively and ask them to look into them – always protecting the confidentiality of the source. They have to report back to me, making changes where necessary. I have found this is a swift way to make my position on an issue clear to the industry, secure progress and on occasion see the retailer repaying suppliers who have been adversely affected.

Formal action is only taken if the practice continues or I need to get to the bottom of an issue – as in the case of my current investigation into the Co-operative Group.

Cracking the Code

Over the past five years I've seen a phenomenal increase in compliance across the retailers. I measure this through my annual survey. In 2014 the percentage of suppliers reported experiencing a Code-related issue was 79% – this year it had dropped to 43%.

Compliance has improved across the board – in the first survey the lowest performing retailer scored 58% and the best 90%; this year the highest score was 97% with only two of the regulated retailers under 90% and the worst performing at 84%. It proves that my practical, business-focused collaborative approach is working.

The annual survey is also an important tool for change as it identifies areas for further improvement. In 2014, for example, 45% of suppliers flagged the aggressiveness of no win no fee forensic auditors as a major issue and the practice of retailers of making an automatic deduction from a supplier's next payment where the auditors found discrepancies going back six years. This was a significant concern for suppliers based in a fast-paced industry where it is difficult to verify older information.

I worked on this issue in two ways – first, I won a commitment from most of the retailers to time limit forensic audits to the current and previous two financial years – rather than the statutory six years – and second, I set down clear rules following the Tesco investigation. Retailers now cannot deduct anything from an invoice without first telling the supplier and giving them 30 days to challenge it. If it is challenged, then the retailer cannot deduct the amount until reaching an agreement. My survey shows a completely different picture today with forensic auditing a concern for only 7% of suppliers.

I have also worked closely with the retailers on the issue of delay in payments which was raised by 35% of suppliers in 2014. Back then there were examples of retailers taking up to a year to acknowledge a pricing error and pay the difference to their suppliers and there were concerns about deductions from invoices for disputes over deliveries.

I have worked intensively with the retailers on these systemic challenges and I am seeing the ground shift. Delay in payments still remains a concern for suppliers, but at a much lower level with fewer than one in five reporting it as an issue. Many of the improvements achieved – although they have been prompted by suppliers' concerns – also benefit the retailers by making their processes more efficient and this can save them money.

Industry trends

I currently regulate the 10 groceries retailers designated at the start, as they had UK annual groceries turnover above £1bn, but as the industry restructures and other retailers are closing in on this threshold this group will likely expand. The CMA (Competition and Markets Authority) is currently examining this very issue.

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More suppliers are also likely to come under my remit as major retailers, like Asda and Morrisons are moving up supply chain and buying directly from the suppliers rather than through the middle men. It means that apple producers in South Africa selling directly to a UK retailer are covered by the Code. Overseas awareness of this is generally poor, however, so one of my priorities is to make sure these suppliers know that there are regulations in place to protect them.

And as I visit events and meet suppliers I am seeing more and more smaller companies – such as makers of energy and nutrition bars, baby food pouches and artisan gin – becoming suppliers to the major supermarkets. For these suppliers it is so important that they learn about the Code and get themselves trained so they know how to handle any Code-related issues that arise. I publish a directory of those trainers I am aware of on my website:

www.gov.uk/gca

Making more progress

While the number of retailers I regulate looks likely to increase, I do not see my remit extending in the near future to indirect suppliers for whom price transparency is a key issue, but which is not covered by the Code. The Government recently had a call for evidence in this area and decided not to make this change but did ask the CMA to look into whether more retailers should be regulated.

The Code has tremendous potential to make a real difference across the sector as it restructures, benefiting retailers, suppliers and customers. With the continued support and co-operation of a growing number of retailers, I believe we can create a fairer and more sustainable future for the industry.



Christine Tacon CBE

UK Groceries Code Adjudicator



**Groceries Code
Adjudicator**