

Business, Energy and Industrial Strategy Committee

Oral evidence: Groceries Code Adjudicator, HC 2186

Tuesday 14 May 2019

Ordered by the House of Commons to be published on 14 May 2019.

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Business, Energy and Industrial Strategy Committee Members present: Rachel Reeves (Chair); Stephen Kerr; Peter Kyle; Mr Ian Liddell-Grainger; Sir Patrick McLoughlin; Albert Owen; Mark Pawsey; Antoinette Sandbach.

Environment, Food and Rural Affairs Committee Member present: Neil Parish, Chair.

Questions 1 – 96

Witness

I: Christine Tacon, Groceries Code Adjudicator.

Examination of witness

Witness: Christine Tacon.

Chair: Thank you very much, Christine, for coming in to give evidence to our Select Committee this morning. This is the first time we have met you while I have been Chair of the Committee. We look forward to your evidence, and to hearing and learning a little more about the work you are doing as our Groceries Code Adjudicator. We will start the questions this morning with Mark Pawsey.

Q1 **Mark Pawsey:** Good morning. Thanks for coming in to see us. In many people's minds, probably the most important issue for you to deal with is the issue of the different strengths between the big retailers and smaller suppliers. That is exemplified in small suppliers being paid late or not as quickly as they might like. What progress have you made in dealing with the issue of late payments by the supermarkets?

Christine Tacon: I will start by telling you how I work. I will definitely answer your question, because I am pleased with the progress that has been made on what needed to be done. Chair, this is actually the first time I have been before the Select Committee since I was appointed five and a half years ago, so I am very pleased to have been invited back. You may know my statutory powers are to investigate and arbitrate, but all along, having consulted with suppliers, I have said that the thing I really want to do is to make a difference that suppliers notice. I have done that by an annual survey. Nine months into the role I did my first survey and I have done one ever since.

I will just flash some cards at you to say that, when I first did the survey, eight out of 10 suppliers said they had had a breach of the statutory code in the last 12 months, but now it is down to four out of 10, so there has been a measurable difference there. On all the issues, which include delay in payments, I have measured incidence. I do not expect you to read this, but you can see that, for every one of the nine measures, the figures have gone down since 2014, looking at the survey that was this time last year. For something like delay in payments, 35% of people had said it was an issue; that went down to 19%.

I also asked all the suppliers how compliant their retailer is with the code. In the first year, the worst score was 58% and the best was 90%. Last year, the worst score was 84% and there were two at 97%. Only two retailers were worse than the best retailers five years ago. You can see I feel I have been pushing up the performance.

Every year, I ask them if their retailer has improved, got worse or stayed the same in terms of code compliance. It is no accident that the top four in terms of improvement, which are Tesco, Morrisons, ASDA and Co-op, have all either been investigated or been the subject of a case study.



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Both the investigations I did took a year each, and the last two case studies took a year to resolve. That was a lot of intense engagement with me.

The survey I have just done had over 1,500 responses from suppliers, so this is a very good representation of how things are. I have done that with only two investigations, as you saw, by having a relationship with the retailers. I meet with their code compliance officers—this is all under the order—who are not allowed to be in the buying chain of command. They are generally in legal or audit. I meet with them three or four times a year. I meet with the chairs of the audit committees every year and with most of the chief executives. In the case of an investigation, I meet with the chief executive quite a few times. The code compliance officers have become my tools within their business. When I have heard about things happening, I tell them about it and they have been protecting their business from me investigating them. As you may know, I have the power to fine up to 1% of turnover, which for Tesco is £500 million. Me saying, “You ought to look at this, because I think something is going wrong”, is a huge incentive for them to do things.

My biggest issue has not actually been getting traction with retailers and getting them to do things, but getting suppliers to tell me what their issues are. It has improved massively. I now get three to four instances of something coming through from suppliers a week but, by far, my best information is when I go out and about to meetings and conferences. I am always setting up private one-to-ones. I think I had 90 one-to-ones with suppliers.

Mark Pawsey: Many of the issues that you are covering will be covered by questions from my colleagues.

Christine Tacon: I was just setting out how I go about it.

Q2 **Mark Pawsey:** I understand you are giving us an overview, but I wanted to focus on the issue of late payments. I was going to ask you what your measure of performance is, but you have told us that it is by means of a regular survey. I think you just said that the number of suppliers that say that late payments are an issue is still 19%. One in five suppliers, therefore, remains unhappy about the payment practices of the big supermarkets. Are you satisfied with that rate of progress? What can be done to improve the figure?

Christine Tacon: I am asking them whether they have had any delay in payments in the last year. One out of 1,000 payments would be one. That does not mean that 20% have all their payments delayed; it is just that. I have put a lot of things under “delay in payments”. Most people would accept that, if my payment terms are 30 days and I get paid in 32, it is a delay in payment. That does not tend to happen.

Q3 **Mark Pawsey:** Hold on; is there not a problem there already? Do we not have a situation with whose terms of trade are accepted? A small supplier



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may well have 30 days in their terms of payment, but the big retailer can say, "My terms of purchasing are rather different from that, and I am not going to comply with your terms of trade". How do you support the smaller supplier or producer when there is that dispute?

Christine Tacon: That is a contractual negotiation that I do not get involved with. My role is about there being no delay in what has been agreed, but I will come on to that. The delays people tend to get is not that retailers do not pay on time. They do. If the invoices match, the computer pays. Retailers pay on time. Do not be concerned about that.

The sort of thing that happens is there is a price mismatch, where the supplier says it is 19p but the retailer says it is 17p. Getting those sorts of issues resolved used to take a long time, and people were worried about raising them with the buyers, because they made their relationship more strained. I required all the retailers to set up a finance-to-finance helpline, so they can go straight to finance to sort out these things. Delay in payments is much more about the things that do not work being sorted.

Q4 Mark Pawsey: Can I go back to your original statement about contractual terms? Are you saying that, if a supermarket were to say, "We will only pay everybody in 120 days and those are our terms of trade", you would consider it acceptable?

Christine Tacon: That does not come under my remit if it has been agreed at the outset. If it has changed midway through, I am right there. It is a variation to agreement and they have to be given reasonable notice of that happening. You were particularly asking about small suppliers, and what has happened in reality is that the duty to report, which is nothing to do with me but is something to do with the Committee, averages payment terms. What has happened with almost all of the retailers I regulate is that averaging means, whether they are paying a £1 million invoice or a £100 invoice, they count as two invoices. There has been a massive push for all the retailers to pay their small suppliers in 14 days. Generally, the small suppliers are being paid much faster, but that has not been driven by me. That has largely come through the duty to report and them wanting to be fairer to small suppliers.

Q5 Mark Pawsey: Is it your view that we have gone as far as we can to improve payment practices or is there still work to be done?

Christine Tacon: You can regulate. At the moment, you are not regulating; you are asking people to report. The Prompt Payment Code is nothing to do with me, but I am aware of it, and there is a duty to report. It does not come up as an issue at all. People generally raise to me when issues are not resolved promptly. I try to intervene to make sure they are, and giving them that finance-to-finance helpline gets things sorted much faster.

Q6 Mark Pawsey: Does your remit extend to complicated payment systems



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and the reporting information that small businesses have to provide to a large supermarket in order to be listed? I hear that these systems are sometimes so complicated that many small businesses often do not understand them. It takes a long time to get their heads around them, which acts as a disincentive to them supplying supermarkets in the first place. Is that an issue for you or is that a contractual matter that you are putting to one side and leaving to others?

Christine Tacon: To be honest, I will raise with the retailers anything that I hear about from suppliers that they feel is making life with the retailers awkward anyway. I have never heard that mentioned but, if I heard it from a few suppliers, I would say it to them. That is generally an easy thing for them to fix.

Q7 **Mark Pawsey:** Can I ask you about the Prompt Payment Code? How many designated retailers are signatories to the Prompt Payment Code?

Christine Tacon: I do not know about that. It is probably about five.

Q8 **Mark Pawsey:** Is that not an issue that should concern you?

Christine Tacon: It is not something I could do anything about if it did concern me.

Q9 **Mark Pawsey:** Is it not in your gift or power, in the collaborative approach you have taken, to encourage all 12 of them to sign up to the Prompt Payment Code? Would that not be a step forward?

Christine Tacon: If it was something that suppliers raised with me as an issue, I would probably talk to them about it.

Q10 **Mark Pawsey:** Are you suggesting that the Prompt Payment Code is, in itself, of no value?

Christine Tacon: I am saying that suppliers are not telling me it is an issue. I speak to suppliers a lot. I have my survey, and it has not come up as an issue.

Q11 **Mark Pawsey:** Do you not think that the fact that half have failed to sign it tells us something about their attitude to paying their suppliers on time?

Christine Tacon: The retailers pay their suppliers on time.

Q12 **Mark Pawsey:** Why would they not sign up to the Prompt Payment Code?

Christine Tacon: Prompt payment is to do with the speed of your contractual agreement. You asked me if they pay on time. If your agreement is 100 days and you pay in 100 days, you are paying on time. That is the difference between prompt and late. I get involved if they have not paid on time.

Q13 **Mark Pawsey:** The public and the Committee would have expected you to have a stronger view about a supermarket that sets its terms as



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paying in 100 days. You are saying, "If those are the terms, I am perfectly happy with it".

Christine Tacon: Indeed.

- Q14 **Albert Owen:** Can I follow on from that? I remind you that my Private Member's Bill in 2009-10 was the Grocery Market Ombudsman Bill, which set in train the next Government's way forward on this. At that time, the large concern was between supermarkets and small producers. You are saying now that they have a voice, and that is really good. Going back to payments, small companies and producers tell me there is still an issue. We had an inquiry and you will be aware of our report on small businesses and productivity. We recommended the Small Business Commissioner should have the power to fine companies for late payments. Do you agree with that recommendation? I know it is not your remit, but we are trying to piece this together, so that we help small businesses per se.

Christine Tacon: We keep getting confused about late payments.

- Q15 **Albert Owen:** We are not confused; I am sorry. The final part of my question was that we want to bring this together, so that it is easier for small businesses and they do not feel there are too many people looking after their interests. They find it complicated, so we are trying to simplify it. I am asking you a simple question: do you agree with our recommendation that there should be a fine for companies? We also have a recommendation for statutory limits of payment within 30 days. Again, your response was that it is not in your remit—that is quite right—but what is your opinion? We would value your opinion.

Christine Tacon: I do not hear differing views from small suppliers as opposed to large suppliers. I regulate the direct suppliers to supermarkets.

- Q16 **Albert Owen:** We have heard it in our evidence, which was why we came to those recommendations.

Christine Tacon: Bear in mind that small business is massive, and there are masses of small businesses supplying people who are then supplying on to the regulated retailers. In the case of the regulated retailers and their direct suppliers to them, I do not hear of issues to do with payment.

Albert Owen: You are the referee, with respect.

Christine Tacon: That is a very small section of all small businesses.

- Q17 **Albert Owen:** We get that, but we want to formalise this. You responded to Mark Pawsey about contracts. In the past, contracts were weighted in favour of large supermarkets against smaller suppliers and producers. After we took evidence, we said that there should be some fines on them and there should be 30-day payments. Do you agree with that? That is my question.



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Christine Tacon: The EU directive they are looking at recommends 30-day payment terms for perishable goods and, I believe, 60 days for all food. My view is that regulation would make things a lot easier.

Q18 **Albert Owen:** Many people are asking for your remit to be extended. Can I ask this question? How does your overlap with the Small Business Commissioner work? Are you working in silos? The people we have taken evidence from, including many of the farmers and producers—I am sure Neil would verify this—feel they need a more streamlined way to report and for action to be taken. As we have two separate bodies, yours and the Small Business Commissioner, it is rather confusing for small businesses. Sometimes they are very small and cannot go to these inquiries and various things. They cannot even spend their time filling in forms to let people know. Do you think there should be a coming together and overlap between yourself and the Small Business Commissioner?

Christine Tacon: Small business is absolutely massive and the bit that I regulate is a much smaller part of that.

Albert Owen: In the area that you cover, many have complained of having late payments.

Christine Tacon: I would be very surprised if suppliers to the retailers are complaining about being paid late. If they do not like their payment terms that is something else, but they are not paid late. They are paid on time.

Q19 **Albert Owen:** We did listen to your opening remarks and I have followed your work for some time. We think 30 days is a healthy period for a small business to wait for a payment, so we think there should be some requirement for that to happen. If you think that should be extended to 40 or 50 days, please say so.

Christine Tacon: No, I am not saying that at all. I am saying that I am a regulator. If you regulate that they have to be paid in 30 days, I will make 100% sure they are paid within 30 days, but I cannot mandate that.

Q20 **Albert Owen:** I get that. What is the overlap between you and the Small Business Commissioner?

Christine Tacon: I would have said it was practically zero. I have never heard of any area of overlap at all. I have obviously met him a few times but I have never heard of any overlap whatsoever. I work entirely in my area. If a small business speaks to me, I will take up their case and act on it.

Q21 **Albert Owen:** Do you meet with unions or representatives of small businesses?

Christine Tacon: I have met with the Federation of Small Businesses. If anybody asks to see me, I see them. I do not refuse to see people.



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Q22 **Albert Owen:** But you work slightly in isolation then, if I may say so. People have to come to you. The weakness of the code, to be perfectly honest with you, is that people have to come to you. Businesses are either too busy or are frightened to do so. I would suggest that the code and the whole procedure could be strengthened by you working together with other bodies.

Christine Tacon: I work with all the trade associations. I actively contact them. Every single retailer wrote to their suppliers, asking them to fill in my survey. I have had over 1,500 responses. I do split them down into micro and small businesses, so I get feedback from each of them on each individual area.

Q23 **Albert Owen:** From the responses I have heard from you, I would ask you to consider a stronger working relationship with representative bodies and with the Small Business Commissioner. Moving on, the CMA is considering adding other retailers to the code. Is that a good idea?

Christine Tacon: It has. From 1 November last year, it added Ocado and B&M. I want a level playing field. If I am regulating these retailers and being on top of the fact that they do not do this, that or the other, I do not want them to have competition that is able to do things that they are not allowed to. I am looking for a level playing field and I totally welcome all businesses that are competing against them in those areas to come under the code. I would be delighted to have more retailers.

Q24 **Albert Owen:** With what falls under a weekly shop and essentials changing, do you think there should be additions as trends change?

Christine Tacon: Yes, but that is what the CMA is doing. It should be starting its next review about adding other people. Clearly it should be mindful of the fact that people are not necessarily shopping in the same way. Online grocery purchases need to be taken into account and, if it is minded to, it could look at other areas. We all know that the majority of food is sold in food service, so there are other areas it could move to.

Q25 **Albert Owen:** You mentioned a level playing field. The code covers retailers with an annual UK grocery turnover of £1 billion. Given the need for a level playing field, should those figures be reduced?

Christine Tacon: As I said, I am in touch with suppliers and know what sort of issues there are. There are areas such as Northern Ireland, where you have very strong regional representation of smaller retailers, where there is dominance. There are sectors where there is dominance, whether in healthcare or pet food. There are reasons why you would say it could be lower.

Albert Owen: You think the arbitrary £1 billion turnover should be reduced.

Christine Tacon: I think there are other areas that the CMA should look at. It was not arbitrary; it was what they investigated. The code came



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from the Competition Commission investigation, which is where the £1 billion came from.

Q26 **Albert Owen:** We are not trying to catch you out here. We just want your opinion. Do you think £1 billion is the right level or should it be more?

Christine Tacon: I would say it is a very good place to start. I would ask whether you have actually captured everybody who is over £1 billion yet. You could then think about other areas where there are suppliers that are saying there are outright breaches of the code. Some are taking advantage of not being over £1 billion but being in a confined marketplace.

Q27 **Mark Pawsey:** Can I just go back to something Albert Owen said? He asked you about your role as a referee in the relationship between suppliers and supermarkets, but you are not a referee, are you? You are an umpire, because you do not act when you see things going wrong. You only act when somebody makes an appeal. Is that right? You said you only act when you are requested, advised or told of something by the supplier. In other circumstances, you would not act. I am just questioning whether that is the right approach to take?

Christine Tacon: The only way I know if anything is going wrong is if suppliers tell me. That is why I have my big survey and that is why I am out and about all the time.

Q28 **Mark Pawsey:** Do you think that suppliers might occasionally be concerned to refer something to you, for fear of retaliation from the big supermarkets?

Christine Tacon: No, suppliers are not good at writing to me but, face to face, they tell me of all sorts of things going on.

Q29 **Mark Pawsey:** You would still act only if an appeal was made to you. If you became aware of something inappropriate in your remit, you would not deal with it unless somebody made an appeal to you. That is what you seem to be saying to us.

Christine Tacon: No, I think you are misunderstanding. I do not have any second sight. I only know what is going on because I hear about it from someone. I hear about it from suppliers. I go out and about; I have at least an event per month.

Q30 **Mark Pawsey:** You would not act on advice provided by a third party, for example.

Christine Tacon: Of course I do, yes, and sometimes a trade association will come to me with issues that all of their members have. I have encouraged all the trade associations to do that, but only one or two do. That is really powerful, because then I know it is not an isolated incident. My biggest concern, if I hear about something from one supplier, is how I make sure that I am maintaining their confidentiality by raising it,



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because it might only be happening to them. I have to find out if other suppliers are experiencing the same thing. When a trade association brings me an issue, it is powerful and I can act on it very quickly.

- Q31 **Peter Kyle:** I will quickly follow up on that. What you said precisely to Mark's first set of questions was that, when things are not resolved promptly, you intervene. We are trying to get to grips with the form of your intervention. When Mark Pawsey was first questioning you, I wrote down what you said. You said that that when things are not resolved promptly, that is when you intervene. We are trying to get a sense of what your intervention is and what triggers it.

Christine Tacon: I take almost anything. The only reason I would not raise something that was directly related to the code and might be an issue is if I have not heard it from enough people, as I would be worried about breaching confidentiality. I am sorry; I think I was probably talking about when payments were not made promptly. I intervene all the time. I am always raising things. I will generally save it for my regular meeting with the code compliance officer, but if I think it is important and urgent, I will tell them straightaway. There have been instances when I have rung the chief executive and told them, "I have heard this. I am very concerned about it. You might like to check what is going on", and something stops in its tracks immediately. I am hungry for information from suppliers to tell me what their issues are, so I can act on them.

- Q32 **Sir Patrick McLoughlin:** Christine, do you at all see your role, in any way, as speaking up for the consumer?

Christine Tacon: No.

- Q33 **Sir Patrick McLoughlin:** Do you think it ought to involve that?

Christine Tacon: It is hard to see how to do that. The Competition Commission looked at the issues. It was worried that there was excessive risk being passed by the retailers on to the suppliers, such that the suppliers would stop innovating and the small suppliers would go out of business. As a result, it drew up the code; I marshal the code. There is nothing I can do to protect consumers. What I do is tell consumers about what I do. There are certain radio programmes like *You and Yours* that are very interested in what I do and publicise it. I speak about what I am doing on consumer platforms, but if a consumer raises an issue with me, there is generally nothing I can do anything about.

- Q34 **Sir Patrick McLoughlin:** It would almost be a natural extension for you to have a wider remit that took online what happens with the consumer. We have just gone through the CMA's report, and it blocked the merger between Sainsbury's and ASDA. It said it would reduce competition in the marketplace and lead to price rises. Did the CMA contact you beforehand or talk to you about its report and work on that issue?

Christine Tacon: No. I do not know whether it asked to, but I did not input into that.



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- Q35 **Sir Patrick McLoughlin:** Do you not think that there would be a role for you to input into that? This whole environment is changing so dramatically now, with online services. We have moved away from it, but you used to go to a supermarket and see people with massive trollies. You do not see that quite so often these days. The car parks are quieter than they used to be. Is there a role for you in that question that the CMA was investigating there?

Christine Tacon: As the code stands, I regulate ASDA and Sainsbury's already. If there were a merged entity, I would no doubt be required to regulate them both. On the whole, I am happy with everything that they do. I find it difficult to see how, in terms of following the code, I would have a view as to what the merged entity would be. The merged entity would still be regulated by the same code.

- Q36 **Sir Patrick McLoughlin:** It would have had a much more powerful place in the marketplace.

Christine Tacon: If you had two suppliers, one each to Sainsbury's and ASDA, and they got these two suppliers to compete against each other for the job, if the one that did not get it came to me, all I would be able to do, according to the code, is make sure that it was given reasonable notice of losing the business. That is what the code gives me the power to do.

- Q37 **Sir Patrick McLoughlin:** You have just said, "All I would be able to do". My question, then, is whether your powers should be wider than they presently are.

Christine Tacon: That is a policy issue.

Sir Patrick McLoughlin: You are the regulator, so you can have a view on where policy should go, the same as we can. You can as well.

Christine Tacon: It depends to what extent you want competition to work. The Competition and Markets Authority would say if it wanted me to do more. It is free competition. If two businesses are supplying two and they become one, that is down to competition.

- Q38 **Sir Patrick McLoughlin:** There was no engagement whatsoever with the CMA from your office about the merger and their inquiry.

Christine Tacon: I cannot remember if it asked me whether I want to do anything, but I certainly had no discussions with it.

Sir Patrick McLoughlin: That is a pity.

- Q39 **Chair:** Can you come back to us and let us know whether it contacted you? If it did, would you not have responded?

Christine Tacon: I would have responded to say what I said before. I regulate both of them already and, as long as the new retailer was going to be regulated, I would have no concerns in terms of compliance with the code.



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Q40 Antoinette Sandbach: Are you saying that you have not had suppliers to both ASDA and Sainsbury's raise concerns with you? Could you not see what the merger would do to suppliers of ASDA and Sainsbury's? Could you not understand the potential impact it would have on them?

Christine Tacon: The answer to your question is that I did not have people contacting me saying that they were concerned. To anybody who asked me about it, including the Minister, I said that, as the code stands, all I can do is to make sure that whoever loses business is given reasonable notice. That is the code. I am the regulator of a code.

Q41 Antoinette Sandbach: I understand that. It may well be they did not contact you. Did you contact suppliers to ASDA and Sainsbury's, who had raised concerns with you previously, and say, "Can I have your feedback on what the implications of this potential merger might be?"

Christine Tacon: No, I did not, because that has nothing to do with me regulating the code.

Q42 Sir Patrick McLoughlin: You told us right at the beginning that you have the power to fine up to 1% of turnover, which you told us could be a very large sum of money. You have not fined any of the big supermarkets yet, have you?

Christine Tacon: No. I have done two investigations. The first was into Tesco and, at that time, Parliament had not agreed the maximum level of fine, so I could not fine Tesco. At the end of the Co-op investigation, it did not hit my priorities for fines, so I took a recommendation route.

Q43 Sir Patrick McLoughlin: Are you taken seriously enough by the companies, in the fact that no fine has been issued yet?

Christine Tacon: I showed you my results. This is what suppliers say about compliance with the code. You will not meet a supplier to the major regulated retailers that does not tell you there has been a sea change in the way that retailers have behaved since I have come into the role. You will not meet one.

Q44 Neil Parish: Good morning. Thank you very much for allowing me to be here. I am coming in on question 10 but I have a quick one on this. We had both ASDA and Sainsbury's in before the Efra Select Committee, because there is an issue if ASDA and Sainsbury's come together: you would have another retailer roughly the size of Tesco; you would land up with two major suppliers having over 60% of retail trade. The dominance in the market is huge. I cannot quite understand why it is not of more interest to you. If you are supplying these people, ASDA, Sainsbury's or Tesco, you will not go and blab to the world if you are having trouble with them, because they will just stop your blasted contract and they will not tell you why. They will not say, "It is because you have blabbed", to you; they will find all sorts of other reasons.

I am amazed that you are not more concerned that the scale of these retailers is so dominant. You do a good job as far as your remit goes, but



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you are always so determined not to let your remit go any further. I know you and I disagree entirely on that, but I cannot make this out about ASDA and Sainsbury's, not only from the consumers' point of view but from the suppliers' point of view. The bigger they get, the more powerful they get. They quite clearly said they were going to make 10% savings from their suppliers, so what were they going to do to their suppliers?

Christine Tacon: As a regulator, I have a remit and a code. It is about whether they are delaying payments, varying agreements without notice, overcharging for consumer complaints or compensating for forecasting. That is what I am regulating, not whether they are being over-dominant in terms of what they are pushing for on price. I do not have any remit on price.

Q45 **Neil Parish:** When we set you up, that is what we thought you were going to do. We probably set you up in the wrong way. I think you do a good job as far as you go, but every time we put an idea to you that we want to extend your remit, you resist it. I am sorry; that is what I do not accept. It is up to us to decide whether we extend your remit or not; it is not about whether you want it to be extended. Are you not concerned about those suppliers being with a combined supermarket? They told us quite clearly that they were going to save 10%, and the way they would save 10% was from the way they bought. They would basically screw the prices into the ground, putting it bluntly.

Christine Tacon: Not as a regulator but as a person, of course I am concerned about those things. As a regulator, I will work under whatever remit you give me. If you change my remit, I will work within the increased remit. It just has not been changed.

Q46 **Neil Parish:** You will not resist us changing your remit.

Christine Tacon: I will not if it is workable.

Neil Parish: That is not quite the answer I wanted but I had better leave it there, because I do not want to dominate here today.

Q47 **Antoinette Sandbach:** You just quoted your survey as an indication of your effectiveness. How many suppliers are there to the companies that you regulate and how many fill out your survey?

Christine Tacon: It is difficult to get an answer. I can ask each retailer how many suppliers it has, but I cannot find out exactly how many there are because there are masses of overlaps. I have asked the British Retail Consortium and it could not help me either, but I think there are about 8,000 suppliers to the retailers. I had 1,500 responses. I am not telling you that they were from 1,500 different suppliers, because some of the suppliers might have had two account managers fill it in. To give you an idea, I think it is 1,500 out of 8,000, but bear in mind there might be some duplication; it is pretty comprehensive.

Q48 **Antoinette Sandbach:** We touched briefly on your investigations into



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Tesco and Co-op. What conclusions have you drawn from both of those investigations?

Christine Tacon: From the Tesco investigation in 2016, I concluded that it had breached delay in payments. In terms of the recommendations I made on them, some of which were quite technical, they included that if it wanted to make a deduction from a supplier, it had to give them 30 days' notice, in which time the supplier could challenge, and if it challenged it, Tesco could no longer deduct the payment until it was sorted. Whereas Tesco used to take the money and then wait for the supplier to argue it was due back, it basically meant the money had to stay with the supplier. I said that pricing issues had to be resolved within seven days. I said that it had to resolve queries promptly and have a supplier helpline. I talked about my finance-to-finance helpline and there were some other issues about training. Those recommendations were binding on Tesco. I monitored them until I was convinced they were implemented effectively and then I discharged them. Since then, I have made clear to all of the retailers that I expect those standards to be followed by all of them.

In the Co-op investigation, I found it in breach of the code for not giving enough notice for delisting and not giving enough notice for varying agreements. In the recommendations to Co-op, I was trying to get to the root cause of the problems. They were more about governance, with legal, audit and compliance working together to audit processes and make sure they trained people properly, such that there would be internal challenge. A technical thing that had an impact on all the retailers is that they cannot deem what is reasonable notice without consulting with the supplier.

Q49 **Antoinette Sandbach:** You explained to us that, at the time you did the Tesco investigation, you did not have the power to fine Tesco. Had you had that power, would you have fined it?

Christine Tacon: It is academic, but it is obvious from the scale of the problem what the answer would be.

Q50 **Chair:** So the answer is yes.

Christine Tacon: I did not have the powers to fine at the time so it was academic, but it was a significant issue.

Q51 **Chair:** Antoinette asked if you think you would have done and you said that, given the scale of the problem, the answer—

Christine Tacon: It indicated that it was a massive issue.

Q52 **Chair:** You probably would have fined it. I do not see what the problem is with saying that if that is the case.

Christine Tacon: Okay, yes, it was a significant problem.

Q53 **Antoinette Sandbach:** You have explained how you dealt with it at the



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time. In terms of looking at other regulated companies, do resource limitations limit the amount of inquiries you can carry out?

Christine Tacon: No. I use external resources for investigations anyway and, in both cases, external resources cost over £1 million. In both cases, because I found them in breach, I recovered the majority, if not all, of the money, so there were no resource constraints whatever. There is a limit to how much I can do.

Q54 **Antoinette Sandbach:** The 1% power to fine is now in place and you have the ability to use it. Since when has that been in place?

Christine Tacon: I think it has been since February 2016. I can come back to you, if you need me to get that exactly right.

Q55 **Antoinette Sandbach:** Since February 2016 you have not found a breach.

Christine Tacon: I have to investigate first. I have only done one investigation since I have had the power to fine, which was the one into the Co-op. The way that I work with the retailers is that if I hear something wrong—

Q56 **Antoinette Sandbach:** I understand. You try to nip it in the bud. That was your evidence to us.

Christine Tacon: I do and, in both of the case studies I have done and with the Co-op, money was paid back to the suppliers. They paid back money to suppliers to try to stop me investigating. Basically, things were put right and then they demonstrated to me that they could not happen again.

Q57 **Antoinette Sandbach:** Is 1% a sufficiently high level of fine, or should it be increased?

Christine Tacon: No, 1% is plenty, and that is what I asked for. The reason it took Parliament 15 months to approve it was because they were shocked by how much I had asked for, but I knew how much retailers could make out of these behaviours and that is why I asked for so much. That is why I get such significant engagement from them.

Q58 **Antoinette Sandbach:** How much of a deterrent is the negative publicity concerning an investigation?

Christine Tacon: It is massive. At the other extreme, ALDI has come top of the survey every year, in terms of compliance with the code, and has used that, not only in all its communications with suppliers. A lot of suppliers think, "If it is selling that cheap, it must be really hard to work with". It uses the fact it has come top of the code in its communications with suppliers, and it has also used it in its consumer advertising. It is almost like the opposite applies as well. Being highly compliant is very positive.

Q59 **Antoinette Sandbach:** I am going to move on to the suppliers' side of it



now. You identified in your overview that you felt that one of the biggest problems was that suppliers were not coming forward to raise their concerns to you. What more could you do to encourage suppliers to come forward? I appreciate that 1,500 responses to your survey is comprehensive, but it means you are not getting feedback from 6,500 of them.

Christine Tacon: Things have improved massively over the time that I have done the job. When I was recruited, I asked whether they wanted someone to roll up their sleeves, go out and sort things out, or whether they wanted a retired judge. They said they did not know. If they had had a retired judge, they would be sitting at a desk with cobwebs on it wondering what they had been appointed for. It is precisely because I did go out and do go to events, and I encourage lawyers, accountants and headhunters. They set up private dinners for their clients and I talk at those. I get lots of feedback that way, and I speak at all sorts of conferences. My team and I have been to the Farm Shop & Deli Show, the natural organic show, the international food exhibition and Taste Wales. I have been all over the place speaking to suppliers.

Q60 **Antoinette Sandbach:** It is fear of contracts being cancelled that stops them from coming forward and talking to you, is it not?

Christine Tacon: No, they will tell me. I am always saying to them, "Do not worry; if I hear it from only one source, I will not raise it. I will look for other sources, so I will always be able to protect your confidentiality".

Q61 **Antoinette Sandbach:** With the greatest of respect, I spent four years as a shadow Minister of Rural Affairs in Wales, and a lot of suppliers came to me and said they were concerned about raising issues with you, because they were worried that their contracts would be cancelled.

Christine Tacon: Everywhere I go, I reinforce my statutory duty of confidentiality. Look at my record. In six years, not a single supplier has been identified in anything I have done. I also say to them, "If you are worried about speaking to me, speak to your trade association. Let your trade association collate the issues and raise them with me". You ask what more I can do. We have had a big Code Confident campaign. The website is extremely interactive. I have put on videos. Also, the retailers send out questionnaires to all their suppliers, so there was no supplier to retailers anywhere that did not get a communication to say that my survey was open. Awareness of the GCA and the code is way over 90%, but you were also asking about people who do not have the courage to tell me.

Q62 **Antoinette Sandbach:** What about other barriers, such as not necessarily the cancellation of their contract but unreasonable distribution requests or requests for certain hygiene standards that mean, for example, investment in a new factory? All the risk is taken on by the supplier and a contract can be cancelled at short notice.



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Christine Tacon: Of the things you have talked about, the key thing I can get involved in is reasonable notice. I have had eight arbitrations so far and most have been about not getting enough notice.

Q63 **Antoinette Sandbach:** If the regulated businesses have wised up to your powers and decided that they want to get round them by saying, "Actually, we will not put this in your contract. We will require you to deliver to our distribution point. We will not come and pick up your product from your outlet", are they using means to get around your regulation that do not cover the areas you are looking at and putting pressure on pricing from the suppliers? That is an added cost in the contract.

Christine Tacon: That is covered under the code, because it would be a variation to agreement and to supply chain procedures. If they are on a fixed-cost contract and something like that happens in the middle, it is not allowed. That was not about distribution; it was precisely what the Co-op investigation was about, because it was bringing in charges for depot rejections and charges for benchmarking in the middle of contracts. It was not giving reasonable notice. If you have a fixed-price contract, you cannot change any of the terms until the end of that contract.

Q64 **Antoinette Sandbach:** My final question is whether you have identified particular sectors that have low awareness.

Christine Tacon: Yes, that comes out from my survey as well. The code covers a supplier to the retailers from wherever they are in the world. I have much lower awareness overseas than in the UK. That may be because of who is regulated, because it includes ALDI and Lidl, but the two biggest overseas countries are Germany and the Republic of Ireland, in terms of supplying the retailers. There is low awareness there. There was also low awareness in the alcohol sector, so we have tried to engage more with the alcohol trade associations and I have been to some beer festivals, on business of course.

Q65 **Albert Owen:** Could you briefly clarify the deterrent factor, rather than fining, which Antoinette raised? Do you have evidence that, when you have made an announcement to look into a company, it has resolved that matter without it going further? Do you have evidence of that, and can it be shared with the Committee? When the Bill went through Parliament that was one of the sticking points; it was the carrot-and-stick scenario. Do you have evidence that it works?

Christine Tacon: Yes, I will give you one. I talked about the case studies but have not explained what they were. I heard that Morrisons was asking for sums of money to help it hit its half-year figures, I think in 2016. I had heard it from a few sources. I contacted David Potts and said, "I have heard this. This sounds wrong".

Q66 **Albert Owen:** Is he the top guy in Morrisons?



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Christine Tacon: Yes, he is the chief executive of Morrisons. It stopped absolutely overnight. Then it did its own internal investigation using a third party, doing a forensic email trawl. It identified all the suppliers that had been asked and cancelled the request. To anybody that had paid, it paid the money back.

Q67 **Albert Owen:** I do not want you to name them all, but are there many examples of this?

Christine Tacon: Yes, there are. There are some when no money has even changed hands. That is why I was saying that sometimes I go straight to the chief exec, but I need to have a reasonable body of evidence to have the confidence to do that, because I know I really stir things up.

Q68 **Albert Owen:** People can talk to you in confidence.

Christine Tacon: Yes but, if I may make a request, please do not remove the power to fine. It is an enormous deterrent.

Albert Owen: We probably want to strengthen it, but that is another question.

Christine Tacon: Everything works.

Q69 **Neil Parish:** We will probably increase it and your remit at the same time. The Agriculture Bill foresees a role for the Rural Payments Agency in enforcing dealing obligations for first purchasers. The EFRA Committee recommends this role should come to you, because I am not convinced sending the Rural Payments Agency into Tesco, Sainsbury's or anybody else will fill them full of fear and trepidation. I think they will take a lot more notice of you in your role as adjudicator. What is your view of taking on that role in the future, rather than the Rural Payments Agency?

Christine Tacon: First, if that first purchaser is selling to the retailers, that would come to me automatically anyway. I would request that the Agriculture Bill makes sure we do not end up with an awkward overlap.

Q70 **Neil Parish:** Have you looked at this proposal in the Agriculture Bill?

Christine Tacon: Yes, I have.

Q71 **Neil Parish:** What is your view of it at the moment?

Christine Tacon: It is not the same and, therefore, that will cause confusion. The first purchaser might be a retailer. You will then say, "Do I go to that code or that code?" There are things in it like saying they need a minimum notice to vary anything of three months, which does not sit on the code. The code is all about it being reasonable, because there are some times when it could be much quicker and many times when it might be an awful lot longer.

Also in the Agriculture Bill, people can go to the Rural Payments Agency, if it is that, to say, "This has happened. What do you think?" I am not a



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complaint-handling body. It can be awkward to be asked that, if you then end up having to be the arbitrator. You cannot have given somebody advice at an earlier stage. We always refer them by saying, "I think you should read this case study. I think you should read this guidance". We do not say, "It sounds like you have a rock-solid case there", because that would put me in a very awkward position as an arbitrator. There are some things that do not sit well, so, if you are going to pull them together, you should make them both the same.

As to whether it should come under my role or the Rural Payments Agency, we need to think about the scale of it. I am working with a small team. I have the resources I want, but there are seven of us in total, including me, with a levy paid by the retailers. I need to work closely with and keep on top of the retailers I regulate. The job you are talking of in the Agriculture Bill will be for the 100,000 suppliers to the 8,000 suppliers. Do you know what I mean? It is a completely different scale of job, so it needs to be thought through as to what is practical.

- Q72 Neil Parish:** Do not forget we have already asked you about this previously. I am not sure that the Rural Payments Agency has the expertise. I am not saying it cannot get that expertise but, at the moment, it largely relies on trying to get payments to farmers on time and quite often it fails to do that. I am not convinced it has a role of going in to make sure trade is being properly co-operated between retailers and the first buyers, and then you have all the processors in the middle. I know you do not want to get involved between the primary producer and the processor, but I think there is a role for you and I will carry on thinking that. The Agriculture Bill is probably an opportunity. Have you spoken to the Secretary of State and said what you have said this morning, about your reservations about what is in the Bill? Have you said anything to him directly?

Christine Tacon: I have to David Rutley.

- Q73 Neil Parish:** This is really interesting. I will not pursue that part any more, but I am glad you have said what you have said on the record. There is a bit more to my question. The EU directive on unfair trading practices will affect the UK, irrespective of the outcome of Brexit. What additional work, guidance and structural changes need to be carried out to ensure that your work will carry out the directive or trading arrangements in the future? You commented earlier about the EU directive, did you not?

Christine Tacon: I have not thought through the impact on my role and how it would need to change. I have looked at it more intellectually, interested in relation to the 30-day and 60-day payment terms. It is coming from a completely different direction. Ours was there to protect consumers. Theirs is about protecting farmers and SMEs.

Neil Parish: To a degree, we need to try to protect both.



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Christine Tacon: It is all about, "You have to be this size and the supplier has to be this size". It is about all these different things and it stops at €350 million turnover. There are all sorts of oddities, whereas ours just covers anybody. Actually, I like having the really big guys, because the really big suppliers are very well informed, tooled up and trained on the code. They are sometimes the first to tip me off when something is going on, which is very helpful. When I stop something, it impacts on all the suppliers, as opposed to just them.

There was also something I read in it, which I thought would be interesting, about the protection of intellectual property and not using information. That was the background to some of those stories about taking information from suppliers and using it for purposes other than that for which it was requested. That was an interesting thing in the EU directive as well, but I am afraid I have not thought about the practicalities of implementing it at all.

Q74 **Neil Parish:** If our future trading relationship is relatively close, we will have to, rightly or wrongly, replicate a lot of the practices that take place in EU trading law. It is not something that you can write off just because of Brexit. It is a case of how we trade in the future. You say you like dealing with the big people. You do, because, in a respect, it is easier to have one or two big players. You rely on putting pressure on one or two of the big players and that solving the problem all the way through the food chain, literally. I am not sure about that, because you have some big processors, co-operatives and all sorts out there, which can use their muscles in different ways. Some of these big processors are not household names, so they are not as worried about being named and shamed. That is the problem as I see it. It is not always, but it often seems to be the little producers and smaller guys and lasses that are done in each time, to put it bluntly. That is where I would like to see you take a bigger role.

Christine Tacon: I do a vast amount with small producers. Part of the reason of going to the Farm Shop & Deli Show and the natural organic show is to talk to the small producers. We went round the stands; we did not have a stand. My team and I walked around every stand and said, "Have you heard of the groceries code? Here is a pack. We are there to protect you. If you hear of any of these things, let us know". I would say 80% to 90% of them had not heard of us, and it was similar at Taste Wales. We deliberately go to places where we think we will find the small suppliers. I am saying that the big suppliers are useful in detecting something that the retailers are doing. Many of the retailers are keen to get some of these small suppliers in, because they are trying to find points of difference between each other.

Q75 **Neil Parish:** That is provided that they do not get them in, in the first instance, and then do them over on price thereafter, because that is what they have been doing for years. That is where we are concerned. It is good you are going out, so that all the smaller producers know who you



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are, but in some ways it is wrong, both from Government's and your perspective, that they do not know who you are and what your role is.

Christine Tacon: When you are a small business that is growing, you have so many balls in the air, without having to learn about this.

Q76 **Neil Parish:** Do we need to be more proactive and put information out there? Do they need to be contacted and told who you are and what your remit is?

Christine Tacon: It is a requirement of the retailers to make sure they know about us as well, so I can probably put more pressure on the retailers to communicate it as well.

Q77 **Stephen Kerr:** Albert Owen alluded earlier to the origins of your role in relation to combating unfair competitive practices and the abuses of power in the grocery market. I have had a little experience of the power of the big players in that market. We are in a changing environment. There are all kinds of changes coming, which find their origins in the technological revolution we are living through, in things like e-labelling, smart labelling, and the use of AI and robotics. They also create new ways in which big powerful companies can manipulate smaller suppliers. Over the next few years, as those digital tools become more prevalent, do you see your role changing in relation to how you view unfair or unreasonable behaviour?

Christine Tacon: So far, the code has been written in a way that allows me to stretch it. I am sure when they wrote, "No delay in payments", they actually meant, "If your payment terms are 30, you do not get paid in 32". I have said that, if there is any dispute and it is not resolved promptly, that is a delay. If we think you have sold 100 cases and the retailer says, "I have only received 98", that is a delay because you have not been paid for two. I have been able to find ways of putting that into it. Interestingly, there is a thing about no payment for shelf positioning. I did some consultation first and made a clear interpretation that this also applied to online positioning, so not being paid to have your product promoted. I hear about things and, so far, I have not come across anything that I have not managed to shoehorn under one of the existing provisions of the code.

Q78 **Stephen Kerr:** Are you anticipating issues that might arise between these big and powerful companies and smaller suppliers, when it comes to technology that might be onerous in terms of cost and implementation?

Christine Tacon: Your question was whether I am anticipating it. I am not anticipating it but, if people ask me about it and I think, "That is interesting; we need to look into that", I will look into it. I am not researching it on my own. I am waiting for people to tell me about it.

Q79 **Stephen Kerr:** I suggest you should probably be thinking about it, because it becomes another lever that these big companies can use



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against smaller suppliers. You should anticipate it because, if it is not already happening, it will be a variable they will use to give themselves more power and put their smaller suppliers at a greater disadvantage.

Christine Tacon: That is why I like to have my finger on the pulse and to hear what is going on.

- Q80 **Stephen Kerr:** "Finger on the pulse" suggests anticipation to me, though. You can see what is happening in the marketplace and you are thinking about what else could be used to create disadvantages for smaller suppliers.

Christine Tacon: I do hear about things and then I think, "I can see that could be a problem". Then I raise it with the code compliance officers and we talk about it. If necessary, I would write guidance or something, so they would understand it. Under the Act, I also have the ability to refer to the Competition and Markets Authority if I think the code needs to be changed in any way. So far, I have not come across anything that I have not managed to slip under an existing provision of the code and work on it.

- Q81 **Stephen Kerr:** Have you come across any examples so far of suppliers that are not fully digitalised, for example, and have been put at a distinct disadvantage in their dealings with these large companies? Have you come across that at all?

Christine Tacon: You talk about not particularly digitalised. I have come across people who are not licensed to particular standards and have felt that that has been a big disadvantage. No, I do not think anybody has complained about that.

- Q82 **Stephen Kerr:** There have not been onerous requirements placed on a smaller supplier's information systems, for example.

Christine Tacon: There have not been in terms of information systems, but things like signing up to something like SALSA, which is an audit business that costs a lot of money, have been put in, which I consider as barriers to them being able to compete.

- Q83 **Stephen Kerr:** What about things like e-labelling and smart labelling, which I know are coming around the corner?

Christine Tacon: Nobody has raised them with me yet. If you know of any, please tell me.

- Q84 **Stephen Kerr:** What about sustainable packaging? When big companies write these contracts, in some cases they have rooms in buildings full of people who make these contracts as intricate as possible. Have you come across situations where those contract renewals, not mid-flight contract changes, have included onerous things for sustainable packaging?

Christine Tacon: I definitely have for sustainable packaging. In those cases, I have said that the retailers clearly have to establish how much of their old packaging they have to make sure they have reasonable notice



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to use it up. Packaging is a new one that is being talked about at the moment.

Stephen Kerr: I repeat again that I anticipate this creating a set of new levers for these large organisations to squeeze more out of their suppliers. I ask you to anticipate that issue and ask directly about it when you interact with smaller suppliers.

Q85 **Peter Kyle:** You are funded by a two-part levy. Talk us through how much income you received in the last year and how much you received as a result of any investigations that you have undertaken.

Christine Tacon: I am totally funded by a levy. Each year, since I started doing investigations, I have been raising £2 million, which gives me headroom of over £1 million to fund an investigation. By using external lawyers, you can get through £1 million quite quickly. The actual cost of running the office is £600,000 to £650,000. When I have an arbitration, I recover the costs at the end. When I have an investigation, if I find them in breach, I recover the costs at the end. Although I am asking for £2 million, I have generally been spending £600,000 to £650,000. When I get the costs back, they are refunded back to the retailers.

Q86 **Peter Kyle:** What was your total income in the last financial year?

Christine Tacon: It was £2 million. I raise £2 million a year. The Co-op investigation, for example, has cost £1.3 million to date, but I have had that back now.

Q87 **Peter Kyle:** Do you feel you have all the resources you need to do the job?

Christine Tacon: Yes. There is no way I can do an investigation with my internal resources, which is why I use external lawyers.

Q88 **Peter Kyle:** Looking at you, your testimony today and the conversation we have had in the round, are there additional challenges coming on stream and down the line, as the sector is evolving? What additional powers would you like, going forward?

Christine Tacon: I do not want any additional powers. I want all the right retailers to be regulated. I want anybody that is competing with the retailers I regulate to be on a level playing field.

Q89 **Peter Kyle:** In an ever-changing market, you feel the powers you have now are absolutely adequate for the challenges that lie ahead.

Christine Tacon: I have no reason to think they are not. It is mainly because variations of agreements can cover variations to anything from e-labelling to changes to the code.

Q90 **Peter Kyle:** In the six years you have been doing the job, have you noticed much change in the sector and on the demands on you as a regulator?



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Christine Tacon: In the job, yes, simply because, when I started, it was easier to get retailers to stop doing something that was wrong. After a while, when forecasts are wrong, you end up with them asking whose fault it is and how they should be compensated. If they say they have delivered 100 cases and the retailer says it only has 98, who is actually right? It was quite easy at first, because you would say, "Stop doing that", "Do not do that", or whatever, but now it is much more difficult trying to establish not necessarily what is right or wrong, but how these things should be resolved to make sure they are done fairly. It has become more difficult.

Q91 **Peter Kyle:** The Committee has had a number of regulators come to us asking for new powers. We are quite used to it now, in fact, and we are quite used to going to war for regulators to get them those powers. A good example is the FCA, which came to us because it felt it did not have the powers to regulate certain things happening in the private sector. The Government refused to give those powers, and those powers would have come in very handy to prevent the kind of collapse we saw with Carillion. Now those powers are being granted.

If I can reflect back what I have seen from your testimony today, you are very proficient and expert in reciting the powers that you have, but when we ask you to help inform us about how you see the sector from your vantage point, you are very reticent to tell us, in a granular way, how you see the sector moving. We are asking you as somebody who has a vantage point on the sector. It is extraordinary to hear a regulator say they do not need any new powers and, looking forward, cannot anticipate the need for any other powers, particularly in a market where we know that the exploitation of suppliers is rife. We know that your sector is not a panacea. What more could you do to improve payment terms, the conditions of small suppliers and the supply chain to help productivity and to help empower suppliers?

Christine Tacon: You say you think I am proficient at reciting what I do, but I think I am very proficient at doing the job I was given to do. Suppliers are telling me that I have made a difference way beyond what they ever expected.

Peter Kyle: Yet you say 90% of them do not know you exist.

Christine Tacon: I said 90% of them do know I exist. Awareness of the code is 90%.

Peter Kyle: You said 80% or 90% of the people whose stalls you visited had not heard of you.

Christine Tacon: I was talking about little one or two-man bands that are producing a new energy bar.

Q92 **Peter Kyle:** Would you not say they are exactly the type of people who should be getting more power in a supply chain?



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Christine Tacon: For a vast number of them, if they were supplying any retailer at all, it was a listing in Ocado. They were not supplying the major retailers yet. They were on the cusp of doing it. Since 1 November, I have been covering Ocado, so they would be covered. The vast majority of those people, when I said, "Do you supply any of the major retailers?" would say, "Not yet". I would say, "You need to know about me".

Q93 **Peter Kyle:** It sounds like you have your niche, but you do not want to step outside your niche. You are very happy with what you have, do not want to be overburdened or seek to extend your powers. We all know there is a bigger problem in the broader sector, but you do not want to get involved in any of that stuff. You just carry on with what you have at the moment and that is fine.

Christine Tacon: I have been extraordinarily effective in the area that I am covering. I would love to get any more retailers that are designated. I will work with them and bring them up to the same standards. You will not find a supplier of the regulated retailers in this country that does not say there has been a dramatic change. I feel that you are asking me to understand areas in which I do not actually work. The suppliers have not raised issues with the regulated retailers that I have not been able to tackle and work on. If I was hearing about things that I could not or did not know how to tackle, I would no doubt be thinking about how to raise them with the Competition and Markets Authority, but I am not getting them.

Q94 **Peter Kyle:** We know that the sector is not a panacea. We know that change is incremental, from the evidence we are hearing from people who are in a supply chain. They do not have the power that they need. For those who want change to be faster and more radical, I do not see you being a driving force in the kind of radical change that many people who are in supply chains want to see. In other words, it surprises us that you are not here bursting with ideas about how regulation can be improved and how more powers and resources could be used to further the work you have already started and achieved.

Christine Tacon: A lot of the things that you all keep raising are about pressure being put on people on price. The Competition and Markets Authority gave me no remit on what I could do on price, so I cannot touch that. I can touch everything else about contracts, varying agreements and things like that. I cannot stop them putting increased pressure on you because they want to move to sustainable packaging. I can make sure they give enough notice about that, but I cannot stop them putting on those pressures, whether they are reasonable or not. That has not been given to me as a power and I am not even sure it is the right thing to do, if you want a competitive market.

The effect of the role has been incredible. We are the envy of very many other countries. I have had invitations to speak all over the world, none of which I have taken up, unless they were in southern Ireland or Brussels, to talk about how we have achieved what we have. We are the



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envy of Australia, Norway, Canada, Russia, Portugal and Chile. I am trying to think of all the places that I have been invited to. They say, "Please can you come and talk to us about what you do, because the impact that you have had from that legislation in the UK is something we would like to mirror". You are being dismissive of what has been achieved in this country. Making sure that retailers treat their suppliers properly and according to the code is not something where I believe I need more powers.

Q95 Albert Owen: I appreciate that huge progress has been made and I take a bit of credit for being a pioneer of this, not globally as you suggested, but within this Parliament. The reality is that things are changing and your role needs to change. That is the attitude of this Committee today: to try to improve things. It is not just to drive prices down, with respect. We do not have that narrow a remit. We want a fairer system that helps retailers and the supermarkets, going forwards. It is important that you take that away from this session.

Christine Tacon: I would ask why we are so worried about just protecting groceries.

Albert Owen: We are not.

Christine Tacon: There is a much broader field of trade than just groceries. I freely admit that I suspect the grocery retailers were the worst, at the time this was introduced. They are not the worst anymore, and the focus should be on wider regulation and coverage, rather than saying we need to keep doing more and more in this narrow sector.

Q96 Chair: Reflecting on why you were set up and are in role, it was to address the power imbalance between the big supermarkets/retailers and the smaller suppliers, which many people have spoken about this morning. We welcome your appointment and appreciate the work you have done in this sector. The issue that gives most, if not all, members around the room some cause for concern is the difference between suppliers being treated properly and suppliers being treated in accordance with the code. We welcome how, in accordance with the code, the treatment of suppliers has improved substantially since you came into role. You should rightfully take credit for that work and the work of your team as well.

The concern is that being treated properly goes beyond what is in the code. Peter is right that, when the FRC, Ofgem or other regulators come to us, they often say, "We should have done more and we should have gone faster to address the changes in our industry. We would like these powers. We have asked the Secretary of State for these powers, and he has not given them to us". We have then supported them in that. It is perhaps a bit surprising that, six years into your role, you are happy that the powers you were granted then are the right powers for a very different market. All of us, in our constituencies, see a very different groceries market, whether because of the growth of some of the discount



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chains or the growth online. It is perhaps surprising that you do not think that your powers need to change to reflect a changing market. I ask you to go away and reflect on that a little bit more. In the future, we would be keen to know how regulation can keep up in a sector that has changed as much as yours.

The last point I will make is around how quickly suppliers are paid. You spoke about enforcing the payment terms that have already been agreed. In a way that is a little late in the process, because you know how a small supplier you met at one of the many events you have attended compares to Tesco. When agreeing that contract in the first place, it is not an agreement between equals. You may be able to enforce the contract that is agreed between the two, but it is about what has happened before that to ensure, in the first place, that it is a fair and reasonable contract, which works for both the retailer and supplier.

For example, you mentioned the duty to report earlier, which the big supermarkets have to report on every six months. For ASDA, the average time to pay an invoice is 44 days. The longest standard payment term is 90 days. At Ocado, the longest standard payment term is 60 days, but 25% of invoices due are not paid within the agreed terms. It is not a signatory to the Prompt Payment Code. There is an issue in both how the contracts are negotiated and enforcing them. We are interested in your views, so maybe you can take some time to reflect. Go away and respond both to Neil Parish, as Chair of the EFRA Select Committee, and myself, as Chair of the BEIS Select Committee, on whether that power imbalance needs to be looked at. You may say it is nothing to do with you, which you have said quite a few times during earlier parts of the session. We have taken evidence previously from Paul Uppal, the Small Business Commissioner, but, as somebody who understands the sector and knows the people in it much better than either the CMA or the Small Business Commissioner, I am interested in your views on whether that power relationship works well enough for the small retailers.

Could you come back to us in the next month or so with a view on that? Perhaps I will write to you, along with Neil, to set out exactly what we are looking for. That would be useful, as we reflect, six and a half years on, on the powers you have and how we can better protect the suppliers to some of these bigger supermarkets. Does that sound okay to you?

Christine Tacon: Sure.

Chair: Thank you very much for your time today. We appreciate it.