

Environment, Food and Rural Affairs Committee

Oral evidence: The Work and Role of the Groceries Code Adjudicator, HC 902

Wednesday 2 May 2018

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Members present: Neil Parish (Chair); Alan Brown; John Grogan; Sandy Martin; Kerry McCarthy; Mrs Sheryll Murray; David Simpson; Angela Smith; Julian Sturdy.

Questions 1 - 119

Witnesses

I: George Eustice MP, Minister for Agriculture, Fisheries and Food, Department for Environment, Food and Rural Affairs; Christine Tacon CBE, Groceries Code Adjudicator.



Examination of Witnesses

Witnesses: George Eustice MP and Christine Tacon CBE.

Q1 **Chair:** I do not think either of you needs introduction but, Christine, would you like to introduce yourself for the record?

Christine Tacon: Good morning, everybody. I am the Groceries Code Adjudicator. Do you want my background or not?

Q2 **Chair:** A little bit, if you like, yes.

Christine Tacon: I am a production engineer. I spent much of my career in fast-moving consumer goods, at Mars and Anchor/Fonterra. Then I spent 11 years running the Co-op's farming business, so I have experience right the way through the supply chain.

Q3 **Chair:** George, I think we probably know who you are, but you can introduce yourself.

George Eustice: I am the Farming and Food Minister.

Q4 **Chair:** Thank you both for coming this morning. Christine, the first question is for you, and it is a very topical one. How will you be working with Asda and Sainsbury's during their proposed merger, to ensure that the suppliers are treated fairly? They are going to be another very big player, and if it is allowed to go ahead we will land up with two big players, Tesco and Sainsbury's/Asda, which will have nearly two-thirds of the retail trade in the country. It is quite massive, is it not?

Christine Tacon: I regulate 10 retailers against the Groceries Supply Code of Practice, which is generally about things that the Europeans call unfair trading practices: varying agreements once you have done them, delaying payments, making a supplier use a third party and the retailer then getting a kickback from it. They are those sorts of things. They are nothing to do with price or whether you are getting a fair share of the deal. They are all about these things that might come up after you have your agreement. I regulate Asda and Sainsbury's already, so it would, in my opinion, be more of the same. On my league table in terms of how compliant they are, Sainsbury's is second and Asda is at the bottom. I have an ambition to bring Asda up to Sainsbury's standards.

Q5 **Chair:** I understand your role is to adjudicate on the trade code. What worries me, and I think many people, is that you will have less and less choice in the marketplace, if you are not careful, especially if you happen to be a processor, a farmer or a primary producer for the market. With two really big players—I probably need to choose my words carefully—is there more of a possibility that they could stitch the market up? Let us be quite blunt, because we are in Parliament, are we not? I can remember, 10 years ago now or probably more, when Milk Marque was split up because it had 37% of the milk and it was considered a monopoly. How big do these companies have to get before they become a monopoly?



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Christine Tacon: Clearly, that is a Competition and Markets Authority question.

Q6 **Chair:** It still affects what you are doing. Are we going to get a fair market for our traded goods?

Christine Tacon: I have no concerns at all about the size of those retailers, in terms of my ability to regulate them. In fact, having got engaged with Tesco after my investigation, it has improved so much that, everywhere I go, people say to me, "Tesco is a different animal". They also say, "We did not actually expect the regulation to make any difference, and it has". They are really, really pleased with what it has done.

The size of the retailers makes no difference to my ability to regulate them. If anything, it means they build it into their systems; they spend serious sums of money making sure they are compliant. That is not answering your question, but I am answering it in the sense that, in my role, I am not worried about the size of them, also because my penalty powers are 1% of turnover, so the bigger you are, the more it is going to hurt.

Q7 **Chair:** Exactly. When you took Tesco to task, at that stage you did not have the ability to fine, did you? Now you have. You would perhaps argue, and it is a fair point to make, that in some ways, if it is bigger, it is easier for you to keep an eye on. Their reputation and 1% of their turnover is a bigger deterrent. Therefore, you may consider that they are more likely to perform in a reasonably fair way. Would that be misinterpreting what you are saying?

Christine Tacon: Given that the retailers all have a turnover of more than £1 billion in groceries, 1% is a lot to them, in an industry that generally works on 2% to 3% profit margins. It hurts them all equally, in terms of what they are. I would say, from my experience, that the larger the retailers, the more they are likely to embed what I want them to do with proper systems and IT investment. The other ones do not move so fast, in terms of putting the right processes in.

Q8 **Chair:** You make an interesting point when you say that most retailers work on 1% or 2%. Lidl and Aldi pay as much to the primary producer, if not more, and deliver lower prices in their supermarkets because their costs are less. We are being told in the farming industry all the time that we must be more competitive. Should the retailers not also be more competitive? Will making another large one necessarily make them competitive in themselves?

Christine Tacon: I am not sure that is a question to a regulator.

Q9 **Chair:** You do not think so. Perhaps I will put that point to George, then. He is the Minister. You will say, in the command paper and elsewhere, that, as we change agriculture policy, farmers will need to be more productive and competitive. Why should the supermarkets not be more



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competitive, so that the farmer can get a better price and the consumer can pay less for their goods? At the moment, these big retailers are just taking too much of the profit, and they will carry on doing so, especially when you have this big Sainsbury's/Asda collusion.

George Eustice: I am not sure. If you look at the story of the last decade, it is of newcomers coming in and challenging the status quo. Lidl and Aldi have really shaken things up. That caused huge problems for Tesco a few years ago, and it is only now turning a corner on that. It has caused challenges for all the established retailers, so it is quite competitive. Arguably, because we have such a ferociously competitive retail sector, those retailers are in a position to put pressure on their suppliers, extract cheaper prices from their suppliers and pass them on to the consumers. It is partly in recognition of the practices that were going on alongside that process that we established the groceries code and, subsequently, the Groceries Code Adjudicator.

Q10 **Chair:** I would argue that the big retailers like Tesco and Sainsbury's use their muscle to keep the price down to the primary producer and processor. They then take too much profit and cost through their process of administrating and bringing that food to the consumer, and charge the consumer too much. Lidl and Aldi have a very good reputation in both the farming world and the processing world for being very good companies to do business with. Yet you can go in there and buy food for cheaper, very often the same food that you would buy in Sainsbury's and Tesco. There is a problem with our retail sector, is there not?

George Eustice: You could argue that there has been. New challengers have come in and shaken it up, by providing that competition. The Aldi model, for instance, is one of offering consistently low prices, with no funny promotions all over the place. It is simple and straightforward. Simplicity is the key to its model, in order to keep its costs down. That is how its business is structured.

Q11 **Chair:** I do not have the percentage figures of what Lidl and Aldi would be, but I would imagine they are 7% to 10%, or probably not quite as high as that, of the total retail market in this. We will now have two really big players, and I cannot believe they are not going to be dominant in the marketplace. We just do not seem to be very worried about this; we just let it go. How big would you want them to get? Tesco and Sainsbury's might say, "This is all very wonderful. Let us get together. Let us have 62% of the trade. The Government did not turn a hair when we had two of us at 32%". When and where will it stop?

George Eustice: When the Competition and Markets Authority judge it as a threat to consumer interests or to competition in the market. This merger that has been announced, I am sure, will be subject to a CMA review. It will apply its criteria in a very diligent and detailed way, I have no doubt. We have to wait and see what the CMA says about this.

Q12 **Chair:** As Farming Minister, you should have some concern—not as much



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in the command paper—about food, food production and farming. You are not concerned at all by the scale of this. Two major retailers will be totally dominant in the marketplace. They are bound to be.

George Eustice: It has been a fairly longstanding approach of Governments of all parties that you need an independent Competition and Markets Authority to look at these issues in a methodical, not political, way. The CMA is literally one of those independent regulators. It is independent of Ministers, even BEIS Ministers. Even though BEIS is the sponsoring Department, it is independent of ministerial decisions and has been deliberately constructed in that way.

- Q13 **Julian Sturdy:** I have a quick point for Christine, while we are talking specifically about the Sainsbury's/Asda deal. Do you have any concerns in your role that the larger the retailer gets, the less likely it is that suppliers will come forward with complaints, basically because they have more to lose? This is just a hypothetical example. A producer that supplies both Sainsbury's and Asda that has a complaint against one might lose that contract, but will still have the contract with the other. It could now lose both, should this merger go ahead, if the complaint comes forward. It is a completely hypothetical situation, but is there concern that the larger the retailer becomes, the less likely it is that producers and suppliers will complain?

Christine Tacon: You obviously know what you are talking about, because that is a key question in everything I do: how do I get suppliers to tell me what is going on? I am lucky if I get one or two contacts a week from suppliers proactively emailing into the office or ringing, which is why I spend a huge amount of my time going out to suppliers and to events. In the last two weeks, I was at the Food & Drink Expo in Birmingham, where there were about 300 suppliers. We had a stand. Nobody came to us, but I went to every single one of those stalls, saying, "Are you aware that there is regulation to protect you? This is what I do. Will you tell me what is going on?"

We were also promoting the survey. It is closed at the moment, but I have not got the results, which is a frustrating moment, because I cannot tell you what it looks like. I have over 1,000 responses from suppliers, giving me an indication of what is going on. I generally work by listening to suppliers, finding out what the issues are and building them up with the survey to know what they are. I then raise those generically with the retailers, which is how I protect the confidentiality of my sources.

Take an example like I had in 2015, when Morrisons was asking for lump-sum payments for people to keep its business. When I hear that from people, I ring the chief executive up straight away. The whole thing stops. They do a big analysis. All the money that has been received gets paid back. That is how I heard about it. Nobody proactively came to me.

I do not think the size of it makes any difference. If you are a small supplier and you have 40% of your business with one retailer, however



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big that retailer is, it is a risk to raise anything, which is why I am a safe source and I collate them. I am not worried about that, but I do not think my job will change. It will still mean that I have to go out, to get people to talk to me, and to hear what is going on.

Julian Sturdy: I will probably come back to that in more detail later.

- Q14 **Chair:** If you are selling into a really large retailer, and you are now going to have a second really large one, the pressure on you not to rock the boat or say anything will be even greater. Surely you will have to work even harder to get that information. You have two big suppliers now, which will take two-thirds of the market. Where are you going to get a market, if you suddenly lose either Tesco or the bigger Sainsbury's with Asda? It is bound to put greater pressure on. As a big processor, where on earth are you going to find a 30% market if you tell on people who are screwing you down into the ground, putting it bluntly?

Christine Tacon: It is a slightly different question. I am interested in whether the retailer is doing something that is prohibited by the code. If you have an agreement and they are suddenly coming and asking you for more money that was not in the original agreement, that is where I stamp on it. If the retailer is putting you in a position where you have to agree to prices that you cannot continue with, and that is part of your negotiation, that is not something I can interfere with. That is something different. Do you know what I mean?

- Q15 **Chair:** Do you not think it is a legitimate concern, though? You are saying that it is just not part of your remit.

Christine Tacon: Correct.

- Q16 **Chair:** Perhaps it should be part of your remit, should it?

Christine Tacon: I am not going to say whether it should or should not, but it is a very different job. When you start interfering in pricing and that sort of thing, it is a very different job from what I am doing.

- Q17 **Chair:** Those major retailers are interfering in the pricing. They are interfering by using their muscles. We all know they do it, so there is no point in saying they do not, and I do not think you are saying they do not do it. In the end, somebody needs to look at this practice. A lot of the farming community probably think you do have those powers, but you do not have those powers.

Christine Tacon: Correct.

- Q18 **David Simpson:** To the point that the Chairman has made about the power that these two organisations will have, if you talk privately to the processors, they will say that supermarkets of that size are a necessary evil, because of the volume of product that they take. That is the key to all this. One concern that has been raised by a number of processors with me is that, with the announcement of this amalgamation, they have already said that they are going to reduce prices by 10% on key



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products, which I assume would be milk, butter, household goods that people buy every day. Who pays for that 10% reduction? They are not going to have any job losses. They are going to keep everything going as it is. If their overheads are higher, as they are, where is the 10% coming from? Who pays for that? Does it ultimately go back to the processor and then to the farmer, the primary producer? That is the concern with a lot of these organisations when they get so big, and they are a necessary evil, because of the volume of product that they take. That is one of the issues that we have.

George Eustice: I get the point. When the CMA looks at these things, it looks at them predominantly from a consumer-interest point of view, but it has certain criteria that it can use within the investigation to look at the impacts further down the supply chain, to ensure there is a dynamic, competitive market with sufficient plurality of options to suppliers for it to work as a functioning market. While the criteria it applies—I do not have the detail—are predominantly about the consumers, I am aware that it is open to it to consider the impacts on a wider supply chain as well.

Q19 **Sandy Martin:** Christine, when you investigated Tesco, one of the biggest problems was extremely late payment to suppliers. The law in this country is not particularly strong on late payment. Do you consider it part of your remit to advise Government where you think that the law should be changed?

Chair: Are supermarkets still working to 90-day payments, or is it sooner than that?

Christine Tacon: Can I just separate two things? I was raising this with the BEIS Minister as well. There is delay in payments: for example, if I am on 30-day terms but I am getting paid in 40. That is what I regulate, but I stretched that, because on the whole retailers pay on time. They have computer systems, and if the invoices match it goes. Most of them are 99-plus percent paying on time.

What I was concerned about is where they had invoiced something twice and deducted it twice. The supplier, instead of getting their full money, was having something deducted twice that should only have been deducted once, or there was a mistake in the system, the supplier was invoicing at 20p, their system said 18p and they were just paying 18p, but they were not putting it right. The delay in payment was not about them not paying on the date; it was about taking stuff off the money so the supplier did not have the cash, and while it was in dispute it sat with Tesco. My recommendations have taken it the other way round: while it is in dispute, it sits with the supplier. That was the main thing that I found.

I do not have any remit over whether the payment terms should be 30 days or 120 days. The principle of it, when it came in, was this: "We will take that broccoli for you and give you the money once we have sold it". That is why there was a delay. When you get some people who are on



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120-day terms for broccoli, that just feels wrong to me, but that is not something I am involved with. I should say that there is regulation in other countries that food has to be paid for in 30 days.

Q20 Sandy Martin: You say your remit is not to determine what the contract between the supplier and the retailer might be. However, in the case of a 120-day payment agreement, you might very well feel that there was a good moral and efficiency case to be made for a change in the law to make 120-day payment agreements illegal. In that case, would it be within your remit to make a comment to the Government about where you thought there was a gap in the law? That was my original question: not whether your remit covers the ability to govern contracts, but whether your remit enables you to advise Government about where the law could be changed.

Christine Tacon: No, it does not. That does not mean to say that I do not make comments as appropriate, when asked for advice.

Sandy Martin: I am glad to hear it.

Christine Tacon: It just would not be a formal record.

Q21 Chair: I have one more question to George. The Government's review of the GCA remit was vague about whether additional retailers would be included under the code. When is the Competition and Markets Authority going to designate more retailers to come under the groceries code? We are very interested in this.

George Eustice: We were clear in our response that the CMA is going to look at this. I know in particular the issue was raised of organisations, such as Amazon, that are new entrants to the market. I do not have a specific timeframe.

Q22 Chair: The online sellers would be a really big one.

George Eustice: Christine may know when they will start that.

Christine Tacon: They have done their analysis, so it is all in process. I know the stage that they have got to, and they have now written to some retailers. I do not know which ones or what the process is, but they are on track and they are doing something. They have moved quickly.

Q23 Chair: Do you when roughly they will be informing you or not?

Christine Tacon: No, I do not. They want to consult with me about how much time they should be given and all that sort of thing, so we are right on it.

Q24 Chair: Online selling is now a big issue. It really is, and will become more so very quickly, all the time.

Christine Tacon: Some of the grocery stores are growing quite quickly. If you look at the bargain stores, there are people who are getting near to that £1 billion turnover threshold. That is what the Competition and



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Markets Authority is now looking at. I expect that some conventional retailers will be swept up under this as well.

Q25 **Chair:** It is around the £1 billion worth of trade, is it? That is the idea of when it kicks in.

Christine Tacon: That was how the original 10 were designated, because at that time they had a groceries turnover of more than £1 billion. I should clarify that groceries is not just food and drink; it includes things like bin liners, toothbrushes and shampoos. You can imagine that there are other retailers that sell more of those sorts of things, which potentially come under the £1 billion turnover as well.

Q26 **Chair:** It is the general turnover of £1 billion, basically, on groceries.

Christine Tacon: On something that comes under groceries, so not clothing and microwaves.

Q27 **Chair:** It is interesting. We can probably have a discussion all day about what is a grocery and what is not. I understand that.

Christine Tacon: It is a bit difficult.

Q28 **Angela Smith:** Just to clarify for my own benefit, it is likely, then, that Ocado, for example, will be brought under the remit of the GCA.

Christine Tacon: If its groceries turnover is agreed at over £1 billion, yes.

Q29 **Angela Smith:** Right. That is our understanding. Of course, that has to be analysed yet. What is the timescale for this?

Christine Tacon: It is in process at the moment.

Q30 **Angela Smith:** There must be a timescale. There must be a date at which you expect an announcement to be made as to whether or not Ocado will come under the GCA.

Christine Tacon: No, I do not know a date. I am advised that, generally, there are start dates for statutory instruments of October or April, so I hope it would be either next October or next April.

Q31 **Chair:** We have to ask the markets authority that question, I suppose, do we not?

Christine Tacon: Yes. They are on to it. It is not something that has gone into the long grass. I know that they are active. I know that they have written, within the last week, to the retailers. It is not being delayed.

Chair: What we could do on this Committee is write to the Competition and Markets Authority, asking some of these questions. We cannot expect you to answer that one, because you are waiting to have the information from the CMA. We will be a bit more proactive.



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George Eustice: The groceries supply code lists quite definitively what groceries is and is not, which the Committee might want to know.

Q32 **David Simpson:** This is, again, to Christine. Just for clarification, how did you determine how much each retailer would contribute to your levy for 2017-18? Can you predict who will cause trouble this year?

Christine Tacon: The levy is a really useful weapon in my armoury, because I have the right to vary the levy.

Chair: You can set it, can you not?

Christine Tacon: When I started, they each paid 10%. It is now varied. If you do not mind, I will answer your question as to next year's levy rather than this one, because it is a bit more interesting. Next year, for 60% of my levy, they are all paying 10% each. For 20% of the levy, I work on a little matrix by how big they are, because generally the bigger the retailer, the more I hear about them, due to the number of suppliers that are impacted, and by how many of the practices of concern that I am looking into at the moment—I am forecasting delays in payment and various things—they engage in. If you take consumer complaint charges, some retailers charge for consumer complaints and some do not. I have a little matrix, and that determines another 20%.

For my final 20%, have I launched an investigation? Have I written and published a case study about you? Have you brought an arbitration to me? How much trouble are you causing me? That is the final 20%.

Q33 **Chair:** They will pay more if they cause you more trouble.

Christine Tacon: Yes, indeed.

Chair: That is excellent.

Christine Tacon: Why should they not? In the way I have set the levy, I need about £650,000 to £700,000 to run my office. It is a small office, with extraordinarily good value for money. Then I ask for more money in case I need to fund an investigation. My costs with the external lawyers and things are all up front, and it is only when I have reported and found somebody in breach of the code that I get that money back. I ask for £2 million, and that £2 million is divided according to that model. The one that pays most is paying £400,000, and the one that pays least is paying £150, just to give you an idea of the difference between the two.

Q34 **David Simpson:** That is very good. Are you going to tell us now who is going to cause the trouble?

Christine Tacon: I am investigating Co-op at the moment, so that is going to be a lot of work. I have not got my league table out, but generally those towards the bottom of my league table of compliance are the ones I will have all the extra meetings with.

Q35 **Chair:** You do it on a risk basis, do you? You look at it and think, "They



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are not performing very well". Is that partly how you do it?

Christine Tacon: No. When the league table comes out, I look at it and think, "That feels exactly like what I am hearing from suppliers". The league table gives me more of the evidence. I have three retailers, in addition to the Co-op, that I am working more intensely with at the moment.

Q36 **Chair:** Would you not like to give us the information of who those three might be?

Christine Tacon: No, I do not think I would.

Chair: Can I not encourage you to do so? No.

Sandy Martin: It would be helpful.

Q37 **Chair:** Yes, it would be helpful. I think it puts pressure back on them to perform. It is not only what you do; it is the fact that, if they get the publicity that they are being investigated, they will perform better.

Christine Tacon: There are two things. It is common knowledge; it is a formal statutory process when I launch an investigation, so there is a formal notice of investigation about the Co-op and what I am looking at.

Chair: You do not want to declare that until that happens.

Christine Tacon: Everybody knows that I am looking at it, and they know what the specific areas are. There is a public call for evidence, which is open, but actually closes today. Then I will start putting statutory requests on suppliers, so I will get all the information I need. That is all in the public domain. My league table, which will be published at my conference in June, makes it very clear who is at the bottom. Some of the retailers I am talking to already to say, "You are going down the league table. It is not because you are worse, but everybody else is getting better. You are going to have to do something about it". I am much more helpful than that. I tell them exactly the sorts of things I am hearing about them.

Q38 **Chair:** Part of your remit is to try to help these people improve, basically.

Christine Tacon: I am making them improve. When you were all first mooted the idea of an adjudicator, the retailers were lobbying against it. Now those same retailers are asking me for advice, so it is a huge change.

Chair: That is good.

Q39 **Mrs Murray:** I know you say you publish your league tables at your conference. Has that had a real effect, though, on improvements? Should you perhaps publish them a bit earlier?

Christine Tacon: I do not have the results yet. I publish them almost as soon as I have them.



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Q40 **Mrs Murray:** You have only just started the league table.

Christine Tacon: I have not got them. The survey has closed. It is done by YouGov, which is now analysing the results. I will get them about two weeks before the conference, and then I will share them. I have done my survey every year since I started, so this will be my fifth survey. Generally, I am working on specific issues. Right at the beginning, the biggest issue that suppliers told me about was forensic auditing.

Q41 **Mrs Murray:** Have they identified retailers that are repeatedly at the bottom of the league table?

Christine Tacon: I have worked on specific issues, and I have evidence that, for something that 45% of suppliers complained about in 2014, only 10% do now. When I have worked on an issue, I have evidence that it has moved. The Co-op has been in the bottom three of my league table right from the very start. Tesco was in the bottom three. Tesco is now comfortably in the top half, but I am talking about last year's figures, not this year's yet. The sense I get from suppliers is that Tesco has made so much change that it is towards the top half now.

Q42 **Kerry McCarthy:** There have been many calls for your work to be extended to cover indirect suppliers. Some of that has come from farmers in this country. Organisations such as Feedback and Traidcraft have looked at the impact on developing countries. You seem to be reluctant to extend your remit to cover that. Is that a resources issue or a personal issue?

Christine Tacon: This might sound a bit funny, and my team would laugh, but I do what I am told. These are the regulations I have been given and this is the code. When I try to push the retailers in areas that are not covered by the code, they are very quick to tell me. I cannot take somebody's cause and raise it with a retailer where they are an indirect supplier. I can only work within the remit I have been given.

Q43 **Kerry McCarthy:** During your conversations with all these suppliers, you must have picked up an awful lot of information that shows there is a problem affecting indirect suppliers, and there is a real call for them to be covered by this code. When you gave evidence to the House of Lords Select Committee in March 2015, you said it was not appropriate for you to promote or seek any changes or extensions to your role, and that the job was big enough for you at the moment.

I would take issue with both sections of that, in that I think you are the best person to be arguing for an extension of your role, if you have identified things wrong in the system that you are not able to deal with at the moment. Perhaps you could come back on that point, to start with. Why do you not think it is appropriate for you to say, "I have seen other things out there; I would quite like to get to grips with those as well"? I think other regulators would.



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Christine Tacon: First, I do not want it to be assumed that it is a doddle to get the 10 largest retailers in this country to change the way they are doing things. It has been a lot of work, and I am now going to get quite a few more, which I will have to take from a baseline of hearing masses of stories of things they are doing wrong to the same standard as everybody else. I have 60 to 70 meetings a year with the retailers. I engage with suppliers twice a month, and I work three days a week. I really am flat out, doing what I am doing, but that is not your point, and I know it is not.

One of my concerns is that the role I have came from two Competition Commission inquiries, in 2002 and 2008. On top of that, there was about three years of a process, putting the adjudicator's role through Parliament, so the code was very well researched; my role was very well researched. I was given a job that a lot of people felt was impossible, but because of the rigour with which the issues were looked at, and with which my role was created, I was given something that has really been able to make a difference. As I told you at the beginning, I started off in the farming community. Their issues are not really the issues that I have in the code. They want a fair share of the price. They want to have some certainty when global markets fluctuate. None of that is covered in my code. If I had the code and was suddenly working on that, I would be concerned.

Q44 **Chair:** The question we are asking you is not whether it is in your code. We have always felt there has been a resistance by you—it may not be the case—to the code being extended. That is the issue. We would like the code extended. Parts of Government would; other parts do not necessarily. I accept that. That is the question to us. You have answered before in this Committee that you lack resource to go further. Our argument would be that you could get more resource, if you needed it.

Christine Tacon: Resource is not an issue. It is difficult, but it is not an issue. I can set my budget where I want, and I can recruit a department of the size that I want, but I am a corporation sole, so they are seconded civil servants, as opposed to lots of me.

Q45 **Chair:** If Government said to you, "We want you to extend your remit", would you resist that?

Kerry McCarthy: You said the job is big enough for you at the moment. You said that you are working flat out, but you are actually working part time, three days a week, and you have other roles, as non-executive director and chair of things. You have dealt with quite a lot of positions since you took up the post in January 2013. If the Government said, "We want to extend the remit; we want to give you more powers, but this would mean you working five days a week", would you be reluctant to do that?



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Christine Tacon: I do not think the issue of whether it is me is relevant. The Groceries Code Adjudicator may or may well not be me.

Q46 **Kerry McCarthy:** You said to the House of Lords, "The job is big enough as it is for me at the moment". That is very much talking about you.

Christine Tacon: Yes.

Q47 **Kerry McCarthy:** The suspicion is that, because you are quite comfortable doing this role three days a week, you do not really want to take on anything more than that. You say you are working flat out on those three days a week; you do not really want to go beyond that.

George Eustice: The Committee has raised this issue before. We had the call for evidence, and I can talk through that. Look, if we felt the right thing to do was to dramatically expand the GCA, it would probably need to expand at least tenfold to do things further up the supply chain. That is a policy decision; we could take that. Having looked at this, there were a number of reasons why we thought that was the wrong way to address the problems.

The position is as follows. First of all, we have a good, interesting model where there is a levy on these big supermarkets. We have an adjudicator very focused on specific challenges, with good relationships with those supermarkets. The model is working well. If you suddenly move that right up the supply chain, you transform the nature of the organisation and it becomes very different.

Secondly, it was clear from the call for evidence that the types of problems we had reported were specific issues around, for instance, dairy processors. The code that is designed for supermarkets is not right to address some of those challenges in processors, where the lack of transparency around pricing is often the problem. That is why we think the right way to tackle that problem is through compulsory, mandatory milk contracts, which the RPA will enforce.

Q48 **Kerry McCarthy:** At the moment, 8,000 or so direct suppliers are covered. There would be 150,000, so I am not suggesting it is any small task at all to extend it to indirect suppliers. That means an awful lot of suppliers, which are really important to the economy of this country and are trying to make a living, are not protected by the Groceries Code Adjudicator from unfair practices by supermarkets. Is that a fair thing to say? What really is the difference between being a direct supplier and being an indirect supplier, in terms of the protection you need?

George Eustice: They are protected from unfair practices by the supermarkets, but they are not protected from unfair practices by the processors, the people in the middle. The issue is less, for instance, around a very large cauliflower grower that is a direct supplier to supermarkets; it is covered. The issue tends to be about sheep farmers who send their sheep to an abattoir and do not know whether they are getting an honest price for a carcass. The truth is that the GCA is not the



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right organisation to assess that. We already have RPA inspectors, who go into abattoirs and check things such as carcass grading and carcass classification. The RPA is the natural body to make sure that there is clarity and transparency on, for instance, sheep carcass classification. It is a question of picking the right regulator for the challenge you are addressing.

- Q49 **Kerry McCarthy:** There could be lots of specific examples where different forms of regulation come in. Take, for example, some of the issues that have been highlighted by organisations such as Feedback, where you have bean growers in Kenya and there is an indirect relationship with Tesco. It is all to do with whether they are dealing with a UK supplier or not. They are not protected in the same way that somebody in this country would be protected. In terms of the behaviour of the supermarket and its relationship with its supplier, why is there a difference in that scenario? Why do they not deserve the same protection?

George Eustice: I suppose because we set this up to be specifically focused on the conduct of the supermarkets. If there was a packer and importer that was bringing beans in, packing them and there was an issue there, they would be protected.

- Q50 **Kerry McCarthy:** Say the supermarket is telling the distributor, "We do not want your beans this month". You have a poor developing country, often absolutely dependent on this monocrop, where livelihoods depend on being able to sell the beans to Tesco. It might technically be the distributor that tells them, "We do not want the beans", but it is because Tesco has said, "We do not want the beans". Should they not be protected? It is still the behaviour of the supermarkets, and that is what this is about. This is about the behaviour of the supermarkets.

George Eustice: In that instance, the supplier to the supermarket would be able to go to Christine. If that was a late cancellation of an order, that would be a breach of the code.

- Q51 **Kerry McCarthy:** I do not think it could if it was based overseas.

George Eustice: I think it could. This is often one of the issues with these suppliers. I was on the Bill Committee that established the GCA. All the while, we have had this challenge of people saying, "We are scared to report things. We do not want to say anything". In my view, suppliers have to get better in using the code, in a very polite, soft way, to say to the supermarket buyers, "You know I cannot agree to those terms, because that would be a breach of the code". Christine has done some very good work on assertiveness training.

- Q52 **Chair:** You think, Minister, they are able to come forward to challenge the supermarket or retailer when they are dependent on it entirely for their income.



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George Eustice: Yes, I think they are. They just need to have a bit of courage to do it. If a supermarket buyer asks them to agree to something that is in breach of the code, they simply need to say, "You know I cannot agree to that, because that would be a breach of the code". At that point, the buyer will retreat very quickly, because they understand the code. They are trained in the code, and they know that their chief execs are committed to the code. It just needs a bit of assertiveness.

We cannot do it all. We have put the regulations in place. We have put the code in place. We have put the adjudicator in place. We cannot do it all for them. At some point, people have to have the courage to stand up and protect the terms of their contract.

Q53 **Kerry McCarthy:** If the distributor and the supplier are based overseas, they are not covered, or are they now?

Christine Tacon: Any direct supplier to the retailer from anywhere in the world is covered. I specifically check the awareness overseas, and I have even been overseas. I have not been to all the places I have been invited to, but I have been to Spain, Brussels and Ireland, to try to raise awareness of it.

Q54 **Kerry McCarthy:** I have one last question. There is an EU directive being considered for adoption next spring that would protect SME suppliers in the food supply chain when the buyers are bigger companies. It would protect them from unfair trading practices. Do the Government have a view? Are we likely to be supporting that directive? Obviously the timing is a little—

George Eustice: It is unlikely. This has been discussed for about 18 months. In terms of the genesis of this, as happens in the lot of areas, the UK was the first country to advance the concept of the Groceries Code Adjudicator. The European Commission looked at that and thought, "That looks like a very interesting idea. Maybe we should do something at a European level". Some other member states that did not feel they had the wherewithal to do this in their national Parliaments asked the Commission to do this.

The UK's view has always been, and remains, that these things are best done by national Government. We have been out there early, putting in place arrangements that are right for us and for our retail sector. We do not think it is appropriate for this to be done at a European level. Nonetheless, you are right; the Commission has published a draft directive, and that broadly does what our code already does, except that it applies to any SME dealing with a non-SME. It has the addition of 30-day payment terms. My instinct on these things is that we have something that works, and we are looking at other things, in the abattoir sector and in milk contracts. The danger in this is that it does not achieve very much, but will become a bureaucratised process, which is



often the case with these things, from my bitter experience. I am not sure what they are proposing is the right way to go.

In terms of its timing, it is unlikely to be introduced before March 2019, when we leave the EU. There is a likelihood that it will be introduced before the end of the transition period. If that is the case, it is possible that we will be obliged to implement this anyway.

Q55 Kerry McCarthy: At the moment, the stance is to oppose it.

George Eustice: We are likely to abstain on it, on the basis that, as with some of these issues, if it is not really going to affect us because it is coming after we leave the EU, we will not stand in the way. It is disappointing, because we have helped the Commission to understand all these issues. We have always said that we are happy to share our experience with other member states, but it seems to me that the right thing to do is for different member states to legislate in a way that works for their own supply chain, and not to do this at a pan-European level, which will inevitably end up being a one-size-fits-all policy.

Q56 Chair: Can we have your reassurance on that? If there are good parts of that, they could be useful to strengthen our code. It is not just that, because it comes from Europe, you do not like it. If there are some good parts to it, perhaps the 30-day payment and things like that, they could be quite useful, could they not? If you are running a business, cash flow is one of the big issues.

George Eustice: At the moment, when it comes to late payment terms for small business, we now have Paul Uppal, the Small Business Commissioner, with a focus specifically on late payments. In the Government's view, we have addressed that through that approach, for the time being.

In our response for the GCA call for evidence, as well as outlining a number of other statutory changes we would make on things such as dairy contracts and sheep carcass classification, we said we wanted to consider whether we could do other things to protect fairness in the supply chain and fair practices. We may well introduce that in the agriculture Bill. We have kept open the possibility of having further statutory codes or statutory measures.

Q57 Chair: We shall look forward to that in the agriculture Bill. You have said that in the Committee, so we are now expecting that to happen.

George Eustice: We said it in our response to the call for evidence.

Q58 Kerry McCarthy: If we have suppliers here that are supplying French or Spanish supermarkets, would the directive not help them in a way that they are not helped at the moment? You are saying everyone should do something in their own country. That depends on their own country deciding to do that. If British farmers are supplying French or Spanish supermarkets—I have been trying to think of some names—



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Sandy Martin: Carrefour.

Kerry McCarthy: This directive would help them, would it not?

George Eustice: Basically, it should be for France and others to decide what works for their particular retail sectors. There is quite a diversity of retail market structures around Europe. I suppose we are getting into a conceptual discussion about whether pan-European law-making is better than self-governance, and you all know which side of that debate I am on.

Q59 **Angela Smith:** I note that George very successfully diverted attention away from the original question, which is about the role of the adjudicator. I want to put the question back to Christine. The point of the question is to establish whether your objection to the extension to the code was based on evidence or based on considerations of the time and resource constraints you face. The second part of my question is this: surely you accept that, in any consultation on change to the remit of an organisation or government body, the government body itself is best placed to provide evidence to inform the outcome of such a review. There are two parts to the question. We just need straight answers.

Christine Tacon: My time and commitment, in my opinion, is an irrelevance. If it needs to be a five-day job, that is the adjudicator; it is nothing to do with me, so that is separate. In terms of evidence, I go out of my way to get evidence all the time, but I am only collecting evidence for the bit that I regulate. I am speaking to suppliers who supply the retailers.

Q60 **Angela Smith:** We are talking about a review here. Every professional or government body I can think of, when there is a review of the remit of that body, is extremely well placed to make, and usually does make, submissions to such a consultation. Surely a consultation that does not have the expert input of the body primarily concerned with it is not a complete consultation. You are well placed to provide evidence to such a consultation.

Christine Tacon: I am really well placed to give any evidence that you want of any direct supplier to a retailer as to what the issues are and what the retailer should do.

Q61 **Angela Smith:** No, this is about the consultation and extending the remit.

Christine Tacon: Yes, I know. You asked me what I am very well placed to do. I am really well placed to comment on that. I am really well placed to say, "I think there are other retailers that those suppliers are telling me they have issues with that are doing the things that these ones cannot".

Q62 **Angela Smith:** Do you think you do not have the capability to provide expert input to a consultation on extending the remit of your job?



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Christine Tacon: If you are talking about supplying up the supply chain, no, I do not have sufficient evidence. I do not collect it, and they are anecdotes that I am collecting. The formal call for evidence was run by the policy teams, but I do not have anecdotal evidence of what—

Q63 **Angela Smith:** I find it astonishing that the head of the government body cannot find the strategic capability within her teams to provide evidence to a consultation on extending the remit of that body. I find that astonishing.

George Eustice: I do not—

Angela Smith: The question is for the head of the organisation.

George Eustice: It is a policy decision. To be fair, you are asking the adjudicator to comment on a policy decision.

Angela Smith: No, I am not.

George Eustice: We made a policy decision, based on the evidence.

Q64 **Chair:** Our suspicion—and this may not be the case—is that you, Christine, do not really want the remit extended, and therefore, to some degree, you do not want to give any evidence to look at ways of extending it. This may not be the case, but this is certainly the view out there. Not that you are not doing a very good job in what you are doing, but it is just that many of us would like it extended, and we just feel, perhaps wrongly, that you resist that change. Would that be fair?

Christine Tacon: We keep talking about extension. Bringing more retailers in is extension. I am quite happy with that, because I understand that. I can do it. I am really concerned about—

Q65 **Chair:** It is not about you; it is about the role. If there is an argument for the role being extended and your remit being widened, are you resisting that or are you open to it being expanded? That is the blunt question.

Angela Smith: That is in relation to the suppliers.

Christine Tacon: It is about taking it all the way up the supply chain to the farm gate.

Angela Smith: It is a straight question.

Christine Tacon: I am not resisting it. I am trying to say that the job I was given to do took 15 years to create in such a way that I was able to make an impact, which every supplier will tell you has made a difference. If something else is bolted on without the analysis, the thought or the rigour of creating a job that can be done, you will throw into chaos everything that is in the other one. I would fight for the same degree of rigour being put into whether something needs to be addressed here, which in my understanding is what the call for evidence should have



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triggered. "Have you done enough?" That is probably the real question you are asking, but that is what the call for evidence was triggering.

Q66 **Angela Smith:** Surely you accept that you had a role to play in providing that rigour. That is the point of the question.

Christine Tacon: Yes, but I do not have evidence. I do not go and speak to farmers to the extent that I speak to suppliers to say, "What are your issues?" That rigour was provided by the Competition Commission at the time. It did two two-year investigations, with the resources that it had, costing £4 million, looking at whether there was a problem.

Q67 **Chair:** They seem to be the ones that are resisting it, you see.

Christine Tacon: It is not me.

Q68 **Chair:** It is not you; I am not saying it is you. I am saying that there seems to be a resistance, when it comes to the markets authority, to extending it. We just feel that you could give the input that would help push it wider. There is this concept out there that you resist that. Now, I do not know that you do, but I would like an answer to it, really. Are we wrong when we come to that conclusion or not?

Christine Tacon: I do not think it is anything to do with me. I will do what I am told, so if they provide me something with sufficient rigour and say, "I now want you to regulate these retailers; I now want you to do this", this is the job of the Groceries Code Adjudicator.

Q69 **Chair:** What we are saying, to put it slightly differently, is that most people in your position would welcome a wider remit and a bigger job. We are just a little concerned that you are doing a really good job in what you are doing, but we are not sure that you would want to extend it. Is that fair? I think we have given you enough of a go on this.

George Eustice: In lots of areas, we separate implementation and enforcement from policy development. You are describing a policy decision. I do not think it is right to say that a regulator should come in and dictate to policymakers.

Chair: We are not saying that. We are not saying they are coming in to dictate. Come on; you are putting words back into our mouths. We are asking whether it would not be their role to encourage it to be widened. We think Christine is inclined to keep it tighter, because she is doing a really good job in that job, but does not want to widen it. If we did want to widen it, could she give us or the markets authority a little more encouragement? I think we had better leave it here, really.

Angela Smith: All I will say is that it is hard to believe, when I think of the economic regulators we have, that any of them would not have evidence or statistics to inform a consultation on a policy decision. That is the only point I would make.

Q70 **Sandy Martin:** As a point of clarification from Mr Eustice, you talked about cauliflowers. I am struggling with the 8,000 suppliers and the



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150,000 suppliers. Would I be right in assuming that the vast majority of the vegetables, for instance, that go to the 10 major supermarkets do not go direct from the farm to the supermarket? They go through some middle person, a supplier. Cauliflowers do not go directly from the farm to Tesco's shelves; they go through a supplier.

Chair: I imagine some of those are very big too.

Sandy Martin: Therefore, the GCA is not dealing with the farmers; Christine is dealing with the suppliers, the middle people, rather than farmers.

George Eustice: You have possibly picked a bad example in cauliflowers, because I worked in the cauliflower industry for 10 years.

Sandy Martin: I deliberately picked cauliflowers because that is the one that you mentioned.

George Eustice: In the last 15 years, there has been quite a transformation. You now have a relatively small number of quite large agri businesses that dominate the cauliflower industry. In Cornwall, where all winter cauliflowers are grown, 20 years ago a big farmer would have had 100 acres of cauliflowers; these days, there are two big players, each with around 5,000 acres of cauliflowers. They are competitors and they are directly supplying all the supermarkets themselves, with their own teams.

The sectors where that is not the case would be, for instance, beef and sheep, where they would be selling their animals to abattoirs. That is where we are picking up those problems, and that is why we are addressing it—

Q71 **Sandy Martin:** Mr Eustice, you mentioned beef and sheep before. This is the point I am making: where is the majority? How many farmers are there in this country?

George Eustice: About 100,000.

Q72 **Sandy Martin:** Are you really telling me that, on the whole, there are not many more than 8,000 who are supplying food to the 10 biggest supermarket chains in this country, which control virtually the entirety of groceries retail? Surely the cauliflowers, not the beef and sheep, are the exception in that case. That is why you mentioned them. If it is virtually any other vegetable, you would be talking about it going through a supplier.

George Eustice: That is where I would differ.

Chair: In the poultry industry, we had one with a third of the total production.

George Eustice: Pig production is dominated by Tulip, a subsidiary of Danish Crown.



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Q73 **Sandy Martin:** The actual farmers are not Tulip, are they?

George Eustice: They are. Tulip has a contract farm agreement with a network of farms.

Q74 **Sandy Martin:** It contracts with the farmers.

George Eustice: No, it runs its own farms and puts in contract farmers. It is a complex area. Beef and sheep are probably the areas where most farmers do not have a direct relationship with supermarkets.

Q75 **Sandy Martin:** Most of the farmers in this country are not small and medium-sized enterprises, are they?

Chair: Sandy, we have to keep moving.

George Eustice: It differs between sectors. In the veg, G's in salads dominates the spring onion industry. You have a small number of carrot growers and parsnips growers, all of which will be very large players, and likewise in soft fruit.

Q76 **Julian Sturdy:** Christine, I want to come back—sorry, it was some time ago—to when you were talking about the surveys you are doing and waiting for the results back. I want to put a proposal to you. I do not know whether you have thought about this or have the remit to do it, but maybe you could advise the Committee. Should retailers be publishing how they treat their suppliers? For example, when you go into a restaurant or some of the retail places here in the House of Commons, they have a hygiene sign, scoring them 1 to 5. I wonder whether retailers should be publishing that, so when customers come in they can see directly, when they go through the door, how that supermarket or retailer treats its suppliers. Some will be very good, and some will not be very good. Then the customers can make their choice.

Christine Tacon: The survey is obviously a perceptions survey. I use it with them all the time, and it helps me work out where their issues are. It is all done by category, so I can say, "You have an issue with delay in payment in frozen". It is very helpful for me to work on them. I do not know if you know, but the same retailer has been top of the survey every year for four years, which is Aldi. Aldi has used it in its consumer television advertising.

Q77 **Chair:** The ones at the worst end of the code are not going to be putting it on their advertising, are they? That is the point that Julian is making.

Christine Tacon: No. I put that into the public domain. As you say, they are hardly likely to publish it at the bottom; on the other hand, I do not think it is any coincidence that the two investigations I launched were on ones that were towards the bottom: Tesco and now the Co-op. It was not because they were at the bottom of the survey; it was because that was where all my evidence was.

Q78 **Julian Sturdy:** My point is this. If retailers were forced to do this, some would come out very well, and some would use it in their advertising, as



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you rightly say. The public could see it, and would buy into it and make their choices accordingly. It probably would or should force those at the bottom to think very carefully, because it would affect their bottom line.

Christine Tacon: I doubt I am allowed to force them to do it, but I certainly put the information in the public domain.

Chair: The more information you can put in the public domain, the better, I believe, especially with these retailers. Their reputation is very important to them, and it just makes them get on.

Christine Tacon: They are all getting better, so being at the bottom four years ago is very different from being at the bottom now.

Q79 **Julian Sturdy:** This is what my point comes back to. However good a job you are doing and however detailed your work, I do not believe it is getting out there in the public domain and to the consumer, so the consumer can ultimately make their choice on how these supermarkets and large retailers are operating. Surely in your role, if you really want that role to be a success and do what it was intended to do, that information needs to be out there, so the consumers can make an informed choice.

Christine Tacon: I have a lot of attention from the media, and I will readily talk with the media about what I am doing. That has probably been one of the best way for me to promote to the consumer how the role is doing and what is improving. The league table gets a huge amount of coverage. I do not really know what to add.

Q80 **Chair:** This morning, you mentioned the people at the top, but you were very reticent to mention those that you are about to investigate at the bottom. That needs to come out. It needs to come out at both ends.

Christine Tacon: I am not about to investigate them but, yes, it is worth looking at.

Q81 **Mrs Murray:** In fairness, the housewife who goes into a supermarket is not going to read your media stories. If they went into a store and could see the information there, they would take notice of it. That pressure might cause the people at the lowest end to improve.

Christine Tacon: Retailers are really concerned about their reputation. I work on various issues and say, "I have a problem". Every one of my case studies could have been an investigation. On every one of those, they have worked with me and paid money back to suppliers, doing everything to try to stop me investigating. If I think I have closed an issue and everything has been put right, I will not investigate. They know that an investigation is bad for their reputation.

Q82 **Chair:** The point we are making is that, if you can do more to get that out to consumers so they can make a choice, it would be really good.

Q83 **John Grogan:** I have one question, but one very brief sentence first. I



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left the House in 2010 and, somewhat to my surprise, came back in 2017. This is one area of policy where there has been amazing progress in that time. As you say, the supermarkets massively resisted this for a decade. It is worth saying that. How many staff do you have, by the way, to do this?

Christine Tacon: I have six.

Q84 **John Grogan:** It is remarkable what you do with six staff. What is the level of test that you have before you launch an investigation? Clearly you can achieve a lot without launching investigations. Would you say one a year is the maximum you could cope with? Is that fair to say? What is the level of threshold that would lead you to launch an investigation?

Christine Tacon: I have to have reasonable suspicion, so I have to be fairly certain, because there is not only a huge cost to the retailer, as well as reputationally, from engaging in an investigation; there is a significant cost to suppliers. The ones I ask for statutory evidence have to do a huge amount of work. It is quite a high bar to get over. Because I have been working collaboratively with the retailers all along, I have basically said that I will always engage with them and tell them what I am hearing. Then they go and do their own work, at significant cost to themselves. They come back with a report and analysis. It is only when, having worked and worked on that, I do not feel I have all the information I need that I go to investigation.

I should say that I have external resource when I do an investigation. It almost protects the office to do day-to-day. It is me who gets pulled in two directions. If I had more than one investigation at a time, that would be possible.

Q85 **Alan Brown:** Going back to the remit, the possibility of extending it and what Angela was asking about, you have said you do what you are told, so, whatever the remit is, you will do it. It is quite clear you are not shrinking violet. You are quite robust. Overall, the extension or not of the remit is a policy decision, as we have heard. It goes back to that consultation. You also suggested there needs to be rigour, hard evidence and analysis, in order to extend the remit. Should you not have responded to the consultation, saying, "Here is what needs to be considered, in order to extend the remit of the GCA", so the Government could make an informed policy decision, looking at the overall responses and the response from you, as their expert?

Christine Tacon: Precisely what you have said, about the need to put the same degree of rigour into it, I have said to the Minister and the BEIS officials. I have told them all that, so it is not that I have not. I have said that all along.

Q86 **Alan Brown:** If it was a response to a formal consultation, it would be there for other people.



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Christine Tacon: I have said it in the public domain. I am on record on many occasions as having said that the job I am doing is working because so much effort went into creating the right environment, and that the same needs to be done for any extension. I am just so concerned that we have come at this from protecting the consumer, and a lot of what we are talking about is about protecting the farmer. It is like you have one weapon to do this; you cannot just make that weapon do something different.

Q87 **Chair:** We need to do both sides, do we not? That is the thing. I know it is not your role at the moment.

Christine Tacon: Do it so that it can be done properly.

Q88 **Alan Brown:** Turning to you, George, it is a policy decision, but at the time of the consultation most respondents seemed to think that indirect suppliers supported action to extend the remit of the GCA. The policy decision has not been to extend the remit of the GCA. You touched on other mechanisms. What statutory codes of conduct are being considered by the Government, in order to protect these indirect suppliers?

George Eustice: There are some key things. Because a lot of the feedback we had was from dairy farmers with concerns around dairy contracts, we are going to have mandatory dairy contracts. There will be a requirement for them to be absolutely clear as to either what the fixed price is or what the pricing formula is. That is a significant step forward. We are working on that consultation now. It will be published shortly. Our intention is to get that statutory instrument introduced later this year, before we have the blizzard of EU SIs coming through behind the EU (Withdrawal) Bill.

Q89 **Alan Brown:** What will be in force to investigate any breaches?

George Eustice: The RPA, which has responsibility in this field.

Q90 **Chair:** Are you sure it will do it? They are wonderful people who come before us. I do not have huge confidence in them at all, and that is on record. Are they going to do it? That is the thing.

George Eustice: Yes, they do it. They do all sorts of things now that people do not even realise: administering school milk schemes and the like.

Chair: Perhaps we ought to know about it.

George Eustice: You will. There will be a consultation, and they will do it. I do have time for the RPA, because I see what it does with difficult circumstances and totally dysfunctional EU regulations, but that is another matter.

Chair: Its systems are totally dysfunctional, if you ask me, but that is another matter.



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George Eustice: Coming back to the question, the second key thing we have said is that we are going to have mandatory carcass classification on sheep. This is a new thing, and this would prevent the problem we have now, where sometimes farmers feel there is a total lack of transparency and abattoirs do not pay them what the carcass is worth. Again, we have RPA inspectors already in abattoirs who carry out this work to check that they are applying the grid, in the case of beef, and they will do the same on sheep in future.

As I said earlier, we have also said that, if there are other areas of the existing voluntary code on the beef supply chain or the dairy supply chain that we could place on a statutory footing, we are keen to explore that.

Q91 **Chair:** We are getting short of time, Minister. On that one, could you give us something in writing on exactly what the RPA is doing in our slaughterhouses? We would be really interested in that. Perhaps I am being unfair, and I would not like to do that.

George Eustice: You are never unfair.

Q92 **Chair:** Exactly, but I probably am sometimes. Seriously, if we could have that, it would be helpful.

Q93 **Alan Brown:** What additional resource will the RPA get in order to do this?

George Eustice: There will be an impact assessment. We will be looking at all that. To be blunt, once we have sorted out and got on an even keel on existing problems such as the payment of the basic payment scheme and Countryside Stewardship, where we have a spike in workload at the moment, resource will be freed up that could be deployed to some of these tasks.

Q94 **Alan Brown:** Will what the RPA will be doing on the new dairy statutory legislation, and what it is doing at the moment with abattoirs, be enough protection for all these indirect suppliers to the supermarkets?

George Eustice: It tackles where the biggest problem is, and it tends to be smaller farmers in a fragmented supply chain who become price-takers, because there is only one lorry that comes to pick up their milk, and some dairy companies are less than transparent about how they calculate prices. A lot of the instances put in by the NFU and NFU Scotland highlighted quite abusive contract terms. A statutory code would address that.

As I said earlier, the beef and sheep sectors are quite vulnerable, because they send their animals to slaughter and they think they have an agreed price, but if there is a lack of integrity about how a carcass is classified, or additional charges are put on, that is where the complaints rest.

Chair: We have five questions left. I know, Christine, you want to try to go by 11. They are all mainly towards you, so we will try to keep to that,



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if we can. We have George for a bit longer, and we like to keep his feet to the fire and keep him warmed up for the rest of the day.

- Q95 **Sandy Martin:** I have a fairly brief and straightforward question, Ms Tacon. In your sector survey in 2017, nearly half of the suppliers you surveyed said that they were not keen to raise issues with you. Why do you think that is? Are you doing anything to change that?

Chair: Is it fear?

Christine Tacon: I asked them why it was. Most of them say they fear retribution from the retailers. I need to get that communication to them; I try. I do a lot, but I need to make sure they are fully aware that I have a duty of confidentiality and can take their issues, combine them with other people's and raise them with the retailers, without the retailers having any idea of whom I have spoken to. I just have to keep doing it and keep a clean copybook, and the confidence will grow.

I do an awful lot of functions where businesses, such as banks, head-hunters or accountants, bring together senior people from their clients. I talk about my role, and then they talk to me about things. Face to face, people tell me things, and that is why I go out and listen. They will be anecdotes, and I just build them together into a theme and take them up. They do not necessarily want to go into writing with me, with a series of emails, to say, "Look at what has happened to me". Some people do, and it is enormously useful, but I have to somehow get the message to everybody. It is almost like a duty, and I will corral them together and turn them into something that I can use, while protecting their confidentiality.

That is why the survey is so great. I do not have the final figures, but I believe I have had about 1,200 direct suppliers responding to me. Of course, one answer gets completely hidden within the others. That is partly how I get them to talk to me.

- Q96 **Chair:** When you do the survey, and you get people in, is that confidential?

Christine Tacon: I always have a duty of confidentiality.

- Q97 **Chair:** Otherwise they are not going to come forward, if they think they might be named.

Christine Tacon: In the survey, I do not know who they are. When I speak to them over dinner, of course I know who they are. You talk about when I get people in; some people come and see me, including global multinationals. They are not just small suppliers that come and see me to say, "We think you should know what is happening". When I am in investigation mode, those are statutory requests and I summons them for interview. I learnt a huge amount from my Tesco investigation, and expect to do the same with the Co-op.

- Q98 **Mrs Murray:** You have mentioned assertiveness as one of the way that



you assist suppliers. How do you improve the understanding of the code among smaller suppliers, which arguably need it more? Do you do any other sorts of training or awareness, to build up their confidence in you?

Christine Tacon: I do not do any training myself. On the front page of my website, I have a list of every trainer who has told me that they do training on the code. I think the number is now 13 different organisations. On every single public platform I stand on, I talk about my confidentiality and the need for them to get trained. I am promoting it all the time. I have a newsletter that goes out every quarter; I think I am now on newsletter 15.

Q99 **Mrs Murray:** Are you confident that small suppliers understand your role and what you are there for?

Christine Tacon: I asked that question in the survey. I am quite confident that they know about me. The figures are in the 90s in terms of awareness of the code and the GCA. They say they have a good understanding of the code. I would argue that anybody who has not been trained does not, because it is not just what you read; it is everything behind it. The delay in payments is not about being paid in 35 days, instead of 30; it is anything that is deducted from the invoice.

Q100 **Mrs Murray:** You do not deliver that training, but you make people aware of where they can get that training.

Christine Tacon: Yes. I am always interested that a number of people respond to the survey and say they are not aware of me. I think, "But you just responded to the survey".

Chair: Lots of people who contact us do not even put our names in; do not worry.

Christine Tacon: The retailers send the survey out. They put it on their portals. I basically said to the retailers, "I can go out and buy a list with your money, or you can send this directly to all your suppliers", and they do. At commercial director level, a lot of them write to their suppliers, saying, "Please send it in, because this survey is used, is very public and we want it to be accurate". Getting the survey out and about is another awareness thing.

It is interesting that somebody mentioned Ocado earlier on. When I was at the Food & Drink Expo, I came across a vast of small suppliers, one-man suppliers, who were in Ocado. If Ocado gets regulated, I have a huge exercise to do, which the retailers may work with me on to help me raise awareness.

Q101 **Chair:** How badly do regulators need to breach the code before you launch an investigation? This is quite an interesting question. What do they have to do?

Christine Tacon: From the outset, I always said I would never investigate if I had not already raised something with them. If I hear



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about something totally new that I had never heard about before, I will tell them all about it, and give them time to put it right and to report back to me that they have. That would not be an investigation. If I hear that they have done something that I think is crystal clear as a code breach, I have given them guidance on this, et cetera, it is much more likely to be an investigation. It starts off as a collaborative approach, with me saying, "I have heard that you have done this". They go and do their own report, come back to me with it, and tell me what they have done to put things right.

Q102 **Chair:** You basically give them warnings, do you?

Christine Tacon: Yes.

Chair: Then if they do not heed—

Christine Tacon: They do heed the warnings.

Q103 **Chair:** I do not imagine you give them very many warnings, do you?

Christine Tacon: Not if it is something I have raised before. They need to come back to me and say, "This is what I have found, and this is how I have already put it right", which is why you get situations like the Co-op saying, "We have already paid back £500,000 of charges". It is putting things right. It is only when they have not convinced me that they have put it right, or there is more that I feel I have not understood, that there is an investigation.

Q104 **Chair:** That in a way is one of your great benefits, is it not, that you can apply this pressure? It is good when you do investigations, but your work is probably more to make sure there is no investigation because it is corrected before it gets there. You probably see that as a really big role for yourself, do you?

Christine Tacon: Yes. I have had five studies. Bear in mind that, if I have a fine, it goes to the Treasury. In a case study, when they put it right, the money goes back to the people who have been harmed.

Chair: It goes back to the supplier.

Christine Tacon: I publish the case study, so they still get named and shamed, and of course the press pick it up and talk about it, so it is still effective.

Chair: Like you say, the money goes back to those it had been taken from, rather than just the Treasury, not that the Treasury would not find it useful, but I see exactly what you mean.

Q105 **Angela Smith:** Have retailers improved since the Tesco investigation, particularly in relation to late payments? Late payment is a really big issue.

Christine Tacon: Yes, the Tesco investigation was a game-changer in terms of people realising how damaging an investigation can be and the strength of the recommendations that I made. I said earlier that



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previously, when anything was in dispute, it was the retailer sitting on the money. I said to everybody, "I expect you to abide by my recommendations to Tesco". Tesco had to give any supplier 30 days' notice of a deduction and, if the supplier challenged that deduction within the 30 days, Tesco could not deduct it until it had been resolved, which meant all the money stayed with the supplier until it was resolved. Tesco has put in systems and procedures.

I said, "Any pricing error has to be put right within seven days of the supplier raising it". They have given me their statistics; I saw them only two weeks ago. I believe their figures are something like three days, in terms of the speed with which they are putting things right. They have given me their statistics on payments. They are way north of 99% on time. They are measuring that. I do not believe any of the retailers that I regulate pay late. They all pay on time. They may have made deductions that they should not have done, but I have put that 30 days' allowance in, so suppliers should be able to challenge them. If you are talking about payment terms, that is something else, but they are paying to their terms.

Q106 Angela Smith: In terms of the deductions, you have detailed very clearly how Tesco has responded to that, and you have told us about how the scheme now works, which enables the money to stay with the supplier. You must be monitoring how the other retailers are also performing in relation to that scheme. What is the evidence there, just to complete the answer?

Christine Tacon: I do not get that level of detail from all the other retailers. Tesco had to provide it to me, because I made it, as a result of the investigation. It has voluntarily continued to show me its statistics, as evidence to me. It does not have to do it any more; it does it voluntarily. I have asked other retailers, and some of them measure different things. I will get figures from some people that say, "We pay 96% of all our invoices on time, but that includes every one with a dispute". Other people will tell me, "Undisputed are over 99%". They give me their stats in different ways. I do not believe there is an issue with any of the retailers paying their bills late. They do it on time.

Q107 Chair: Just to make the question slightly wider, if the retailer is paying within 90 or 120 days, that is what the supplier has agreed to. I think it is an extortionate length of time. Of course, you are saying that, if he or she pays within the 90 or 120 days, they have paid within the agreement.

Christine Tacon: Yes.

Q108 Chair: Are you saying to suppliers that 90 or 120 days for payment is very unreasonable? It goes back to these big retailers that we talked about in the first place. If you are a massive retailer like Tesco or Sainsbury's/Asda in a minute, which have 30% of the trade each, suppliers will have to agree to the 90 or 120 days. They have no choice,



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because that is where most of their business will land up. Is there any way that this can be published, as to what the terms of trade are? Most people would consider this unreasonable.

Christine Tacon: Government have done a lot in this area. As you know, all these big businesses now have to report what their payment terms are. That has had, in my opinion, a phenomenal effect, because it is done as an average, not a weighted average. If you pay your smaller suppliers more quickly, it is much cheaper than paying your big suppliers more quickly, if you see what I mean, from a cash flow point of view. Four of the retailers have now announced that all their small suppliers are being paid in less than 14 days. There has been a huge change in that area.

Q109 **Chair:** You see where I am coming from, though. If you are a big supplier, you then have to pay your people further down the supply chain. If you have to wait 90 or 120 days for your payment, it is bound to affect everybody, is it not?

Christine Tacon: It has moved substantially. Government have now required this reporting.

George Eustice: It is the focus of the Small Business Commissioner as well. Late payment is the No. 1 focus.

Q110 **Chair:** In a way, it is not just about the small people. It is good to deal with them, but the length of time the big suppliers have to wait for payment has a knock-on effect.

Christine Tacon: I know that this is of concern to my Minister, Andrew Griffiths. I have spoken to him about it, and I have told him that other countries say anything in the food and drink sector has to be paid in 30 days. He said, "Let us have a look and get some benchmarks against other countries". I am feeding into that, but I am right on top of paying on time.

Q111 **Julian Sturdy:** Before I go on to the last question, I just want to go back to something on Sheryll's question. I will be quick on this. Christine, you said, on the surveys you send out, that you have recommended that the retailers send those surveys out, rather than you. Do you think that the responses you get back from that survey might be slightly coloured, because they are coming directly from the retailers? The supplier gets a letter from Asda, Sainsbury's or Tesco—I do not want to highlight one—with the survey. Do you feel that it might just think, "I am a bit more reluctant to say what is really going on", rather than if it came directly from you?

Christine Tacon: It is a YouGov survey, so all they are doing is sending a link. The answer goes nowhere near the retailer. Some of the retailers conveniently send it with a newsletter saying, "These are all the things we have done in the past year". I do not mind that at all; they are just reminding everybody of what they have done. Many of them say,



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"Please, we want you to respond; we want to have an honest answer, because we are working with all this". Once you have started on it, it says, "Have you had any deductions from invoices?" It either has happened or it has not. "Have you been charged for consumer complaints when you do not know what it is for?"

Q112 Julian Sturdy: It was not about the questions, but where it is coming from. I would imagine, and certainly I have had some feedback on this, that you would get more honest answers and a better response if it was coming directly from you, rather than coming through the retailers, even if it is your survey.

Christine Tacon: It goes through every channel. I have a database, but it is one that I have built up over time; it is not huge. I send it directly to all of my database, which I think is getting on to 1,000 or so things. It is publicised. All the trade associations push it out. I put it in the media everywhere. The links are everywhere. In addition, the retailers send it out. It is not just through the retailers. I am not sure I have the right to demand the mailing list of all their suppliers. It is just getting it out there.

Q113 Julian Sturdy: Okay. That is not quite what I meant. Could you give us an estimated timescale on the Co-op investigation?

Christine Tacon: Yes. What I will say is that the Tesco investigation took me a year. It is clearly going to depend on what I find, but I am pacing myself on doing it in exactly the same timescale. I might find more, and it might make me late, so I am not promising that.

Q114 Chair: When did you start?

Christine Tacon: I think I launched it on 8 March. When I leave here, I am going to lawyers' offices, and I am reading the first stack of information that I have. I am well on the way with it. I anticipate holding interviews over the summer.

Q115 Chair: Through that period, do you make any interim statements?

Christine Tacon: No.

Q116 Julian Sturdy: You will not go public on the findings at all until—

Christine Tacon: Until I have finished.

Q117 Julian Sturdy: We are probably talking about next March.

Christine Tacon: Yes.

Q118 Julian Sturdy: If we had you in front of this Committee in 12 months' time, you would be telling us the detail.

Christine Tacon: If I am on my timetable, yes. It may well be that I find something else. I can extend the investigation if, in looking through the information, I find something else. That is what I am starting with.



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Q119 **Julian Sturdy:** If you found something else and it meant you had to extend it, would you go public in saying that was the reason why you had extended it?

Christine Tacon: I have to. The investigation is a statutory notice. You will know about it.

Chair: Thank you, Christine. We have put some strong questions to you; you have answered us. We will probably write a letter to you on some of the points, if there is any clarification or a point we particularly want to press. We appreciate you coming this morning. We appreciate the work you do; in fact, we want to give you more work to do. It is not that we do not appreciate what you do. We are not going to let George escape now; he is going to stay. Thank you very much. Go off and sort the Co-op out. Well done.