

## Written evidence submitted by Sustain (FFS0005)

1. Sustain is the alliance for better food and farming. We have over 100 member organisations that collectively champion a sustainable, resilient and fair agri-food system for all.
2. This submission is based on the work of the Groceries Code Action Network — a coalition coordinated by Sustain, made up of food and farming organisations committed to advocating for a fair and equitable food supply chain that upholds the dignity and livelihood of farmers and producers, both domestically and internationally.
3. The following organisations support this submission: The Food Foundation, The Eating Better Alliance.

### Summary

4. Sustain's analysis of the current regulatory framework for the food supply chain has revealed significant gaps and inefficiencies that undermine the intent of existing policies designed to protect those at the vulnerable end of the food supply chain who are also responsible for protecting nature, livestock, ecosystems and workers. In this submission we present our concerns and recommendations to ensure a comprehensive approach towards food supply chain fairness.
5. The UK's food supply chain is plagued by power imbalances, inefficiencies, and a lack of sufficient regulatory oversight, which put undue pressure on farmers, small food businesses, and workers. Existing frameworks like the Groceries Supply Code of Practice (GSCOP) and the role of the Groceries Code Adjudicator (GCA) are limited in scope and, to date, their enforcement functionality has not been a sufficient deterrence against unfair dealing, leaving many stakeholders vulnerable to unfair practices.<sup>1,2</sup>
6. To promote fairness, sustainability, and resilience of the UK food and farming sector, this submission outlines key recommendations: strengthening the GCA in both its scope and mode of function, and integrating sector-specific fair dealing codes into a cohesive regulatory framework. These reforms are critical to safeguarding the livelihoods of farmers, protecting the environment, and ensuring food security for future generations.

### Key Challenges and Recommendations

#### Reduce the Fear Factor

7. **Challenge:** Suppliers are hesitant to approach the GCA due to fear of retaliation and possible de-listing by retailers, significantly undermining the GCA's effectiveness and leaving many instances of unfair dealing unreported. A recent survey found two thirds (67%) of farmers fear being de-listed if they speak out about supermarket buying behaviour.<sup>2</sup>
8. **Recommendation:** The government should ensure the GCA implements a system of randomised visits to suppliers in order to proactively assess compliance with GSCOP, thereby making it easier for suppliers to engage with the GCA, thus helping to protect suppliers from direct retaliation.

#### Improve the function of the GCA

9. **Challenge:** The GCA's current mode of function has meant current progress in reducing fair dealing has stalled. Its compliance ('collaborative') approach is not acting as a sufficient deterrence.
10. **Recommendation:** The GCA should adopt a more deterrence-based rather than compliance ('collaborative') orientated approach to enforcement, to reduce incentives for non-compliance. This could involve a greater use of its already existing fining and investigatory powers.

### **Expand the scope of the GCA**

11. **Challenge:** The GCA's remit is limited to direct suppliers of the 14 largest retailers, excluding the majority of farmers and smaller food producers, which generally don't deal directly with supermarkets.
12. **Recommendation:** The Government should expand and strengthen the GCA's remit to include businesses with a turnover of over £500,000. To move to a more unified regulatory framework, a 'GSCOP+' could be introduced to include all upstream and mid-supply-chain businesses with significant annual turnover, ensuring comprehensive coverage and fairness. This could be overseen by deputy adjudicators within the GCA, with a GSCOP+ code designed for business-business relationships within the supply chain that ultimately supply the 14 largest retailers. This could be done using powers the government already has under the GCA Act (2013) and is an approach akin to that the EU Unfair Trading Practices Directive has taken in order to develop a code which needs to be followed by a more powerful business relative to a weaker business.

### **Ensure Regulatory Cohesion across departments**

13. **Challenge:** The absence of a unified regulatory framework creates regulatory silos, inefficiencies, and the potential for perverse outcomes. The new DEFRA adjudicator(s) must have the capacity and mandate to share pertinent information with the GCA to prevent a fragmented approach that fails to hold retailers accountable for initiating unfair purchasing practices
14. **Recommendation:** The Department for Environment Food and Rural Affairs and The Department for Business and Trade should establish a formal and mandated mechanism for information sharing between DEFRA adjudicators and the GCA to foster a unified strategy and coordinated action against unfair practices.

### **Background and Evidence**

15. The 2008 Competition Commission's inquiry identified excessive risks and costs transferred to suppliers by grocery retailers. This led to the creation of the Groceries Supply Code of Practice (GSCOP), legally binding on designated retailers, now enforced by the Groceries Code Adjudicator (GCA).
16. The GCA has been successful in reducing the prevalence of unfair and abusive purchasing practices undertaken by the UK's 14 largest food retailers. However, as recent inflation, brought on by multiple global economic shocks, has impacted suppliers' cost prices, the continued trajectory of retailer compliance with the GSCOP has stalled. Intense retail competition, heightened by the entry of discount supermarkets, has triggered a race-to-the-bottom in the hyper-competitive commercial landscape. The current aggressive commercial strategies employed by retailers are squeezing farmers' incomes<sup>3</sup>, with farmers receiving less than 1% share of the overall profits for their produce.<sup>4</sup> Described as 'warfare' by the Groceries Code Adjudicator<sup>4</sup>, the relationship between supermarkets and suppliers has reached critical levels.
17. Furthermore, the GSCOP only applies to designated retailers and their direct suppliers, and crucially does not apply to indirect suppliers, leaving the majority of farmers unprotected.

This means that unfair practices that originate with the retailer, such as delayed payments and unilateral contract changes, can be passed down the food supply chain to areas which are not covered by the GCA.

18. In an attempt to protect these 'indirect suppliers' DEFRA, using the powers of the Agriculture Act 2020, is proposing to set up 4 or more narrow sectoral codes – aiming to protect farmers in specific sectors. The first of these codes – milk - has passed through parliament in the form of The Fair Dealings Obligations (Milk) Regulations. The Secretary of State has promised new rules for the pig sector this spring, and it is anticipated it will be followed by eggs and fresh produce. These codes are due to be overseen by the newly established Agricultural Supply Chain Adjudicator, overseen by DEFRA.
19. While we welcome moves to address unfair dealings, we are concerned about the departmental fragmentation and sectoral siloed approach that the government is taking to address problems only in 4 sectors and only at the farming stage.
20. **The symptom, not the cause, of unfairness is currently targeted.** Currently there is no mechanism in place by which the GCA gets informed by the DEFRA adjudicator in circumstances where there is reasonable suspicion that it was actions by the retailer, in breach of GSCOP, which caused a breach of the Dairy/Pork/Eggs/Horticulture Fair Dealing code. The DEFRA adjudicators may be able to address the farmers' experience of unfair trading practices, but if the cause of that unfair trading practice originated with the food retailers, the retailers will continue to get away with passing unfair trading practices (which breach GSCOP).
21. **The new sectoral codes risk perpetuating regulatory fragmentation and market distortion.** The two-regime approach with the GCA and the DEFRA sectoral codes of conduct, are fragmented and thus vulnerable to exploitation, potentially resulting in three 'own goals': (i) Intermediaries are created with the sole purpose of evading both GSCOP and the new Agriculture Act regime; (ii) Processors go out of business resulting in farmers having no market; and, (iii) it becomes more convenient for buyers to source from supply chains where there may be less protection, such as from overseas, putting UK suppliers at a competitive disadvantage.
22. **Small mid-supply chain processors are at risk of being pushed into administration.** Smaller food processors in most of the large supermarket food categories will remain exposed to risks and costs being dumped on them. They are potentially even more at risk after the fair dealing codes have been passed, because they may continue to be subjected to retailers' unfair trading practices but need to ensure (correctly) that they treat the farmers in compliance with the new fair dealing codes.

## Conclusion

23. A joined up and integrated approach to food supply chain fairness is crucial to address the underlying issues of unfair trading practices effectively. By adopting the recommendations outlined above, the Government can take a significant step towards ensuring a fair and sustainable supply chain that benefits all stakeholders. We urge the Committee to press the Government to take forward these proposals in their advocacy and policy formulation, paving the way for a more equitable food supply chain.

January 2025

## References

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5. The Grocer, 2023 – “Groceries Code Adjudicator accuses supermarkets of ‘warfare’ on suppliers”. <https://www.thegrocer.co.uk/supermarkets/groceries-code-adjudicator-accuses-supermarkets-of-warfare-on-suppliers/683709.article>