

Written evidence submitted by the British Retail Consortium (FFS0010)

EFRA COMMITTEE | FAIRNESS IN THE FOOD SUPPLY CHAIN SUBMISSION FROM THE BRITISH RETAIL CONSORTIUM

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About the BRC

The BRC is the lead trade association for UK retail.

Our purpose is to make a positive difference to the retail industry and the customers it serves, today and in the future.

Retail is the 'everywhere economy', a vital part of the socio-economic fabric of the UK. The industry makes up 5% of UK GDP and is the largest private sector employer, providing 3 million direct jobs and 2.7 million more in the supply chain. Retail has a presence in every village, town and city across the country.

Over 200 major retailers are members of the BRC, with thousands of smaller, independents represented by BRC's trade association members. Together, these businesses operate across all retail channels and categories and deliver over £350 billion of retail sales per year.

We build the reputation of the retail industry, work with our members to drive change, develop exceptional retail leaders, and use our expertise to influence government policy so retail businesses thrive and consumers benefit. Our work helps retailers trade legally, safely, ethically, profitably and sustainably.

Background

1.0 Background to our submission:

- 1.1 The British Retail Consortium (BRC) welcomes the opportunity to submit evidence to the inquiry. The BRC is the trade association for UK retail and our food members account for around 95% of grocery sales. 12 of the 14 retailers covered by the Groceries Code are BRC members.
- 1.2 Our members know the importance of long term, constructive relationships with their suppliers in delivering quality, affordable food. The vast majority of the food they source is from the UK, so delivering strong links with the UK supply chain is essential to their businesses.
- 1.3 Retail supply chains, unlike other parts of the UK food industry, have been highly regulated for a number of years and our members have worked closely with the Groceries Code Adjudicator (GCA) to ensure high levels of compliance. We have also supported appropriate controls further up the supply chain to support UK farmers and processors and welcomed the creation of appropriate powers in the Agriculture Act 2020 to give them more security in their dealings with their buyers.
- 1.4 The Committee will be aware that a number of our members gave oral evidence to its previous inquiry on fairness in the supply chain in April 2024. Our responses to the detailed questions posed in this inquiry build on those comments.

Submission

2.0 The effectiveness of the GCA to enforce the Groceries Supply Code of Practice:

- 2.1 As well as considering recent reviews of the GCA's effectiveness it is worth considering the overall objective of the Code supported by the Adjudicator. The Competition Commission recommendations in 2008, following its groceries market investigation, for a Code supported by its proposed Ombudsman, later Adjudicator, was designed to protect consumers. It was designed to ensure the market maintained the choice and innovation consumers expected. Considering the market today, in terms of choice and innovation that objective has clearly been achieved as consumers benefit from a highly competitive, affordable market as confirmed in 2023 by the CMA's review of supermarkets.
- 2.2 More specifically the Adjudicator's effectiveness is regularly reviewed by both Government and suppliers. The latest Statutory Review of the Adjudicator in 2023 confirmed both suppliers and retailers felt it was effective in enforcing the Code and that it had led to a continued improvement in the supply relationships between retailers and their suppliers.
- 2.3 The latest annual survey by the GCA of suppliers in 2024, also confirmed a continued improvement in performance with high levels of compliance, improved awareness of the GCA's role and falling complaints.

3.0 The potential merits and demerits of expanding the scope of the Groceries Supply Code of Practice:

- 3.1 It is worth remembering the Code was a specific remedy of the Groceries Markets Investigation. That investigation focused only on the relationship between retailers and their direct suppliers, and the Code was proposed to ensure the maintenance of choice for customers in supermarkets. The Code was designed for contracts between retailers and their direct suppliers, covering issues less relevant to farmers such as promotions and deliveries.
- 3.2 As demonstrated by regular reviews, the Code has met the requirements of the remedy. Contracts are agreed in accordance with the principles of the Code, which has given suppliers the confidence to maintain investment in innovation and development of new products.
- 3.3 Retailers understand the concerns of farmers and other suppliers who are not covered by the Code as they are not direct suppliers to supermarkets and are working with their supply chains, where possible, to ensure the maximum support for them. However, many farmers will supply a variety of food businesses once their produce is processed including hospitality businesses, exporters, food manufacturers, Government procurement and retailers. It would be ineffective to increase powers within the Code where retailers have no direct relationship with those farmers and opportunity to influence their contracts and payments.
- 3.4 The final point on whether a revised Code could support farmers was clearly considered by Government when it decided to legislate for similar interventions in supply chains through the

Agriculture Act. That approach is clearly tailored to address farming concerns which could not be addressed through the Code. We support that approach and believe it would have been inappropriate, and probably not justifiable in legal terms, to simply adapt the Code when it had been developed as a very specific intervention.

4.0 Other potential reforms to the Groceries Supply Code of Practice, including the potential benefits and risks of lowering the turnover threshold for which retailers are covered:

4.1 We believe the Code, as supported by the Adjudicator does not require further reforms. The guidance provided by the Adjudicator has both clarified the Code to retailers and suppliers and also ensured consistent application by retailers covered by it.

4.2 The Adjudicators have taken a proactive approach to the Code to ensure it has continued to evolve and remain relevant, for example, the guidance on forensic auditing and price negotiations during the period of high food inflation.

4.3 In terms of the specific point on the turnover threshold we also don't believe that requires reform. In real terms the threshold has fallen since the Code was introduced in 2009 due to inflation. The £1bn turnover threshold has not changed since then, and in real terms that equates to a turnover threshold of approximately £650m pa at 2009 prices once inflation is taken into account. It is also worth noting that four large grocery retailers are now covered by the Code who weren't in 2009.

5.0 Adequacy of reviews into contractual practices in agricultural sectors and effectiveness of introduction of fair dealing powers under the Agriculture Act:

5.1 We have supported intervention further up the supply chain to support farmers in their direct commercial relationship with their buyers. We felt specific legislation to support improved contracts would help all farmers regardless of where their buyers, such as dairies, abattoirs and packers sell their processed products.

5.2 Retailers have engaged with Government to share their perspectives on the operation of the supply chain and help understand the UK food market. However, we have not been directly involved in discussions on fair dealing.

6.0 The benefits and risks of a sector specific approach to the introduction of fair dealing powers:

6.1 We believe there are merits in a sector specific approach. Different supply chains will have different types of intermediaries dealing with farmers, and different markets they are selling into. For example, sectors such as dairy and chicken are more consolidated than beef and

sheep. It makes sense to reflect the factors which influence choice of buyer and the market for processed products in the fair dealing powers