

Written evidence submitted by the Food Ethics Council (FFS0027)

Submission by the Food Ethics Council to EFRA Committee inquiry into *Fairness in the food supply chain*

Submitted 24th January 2025

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Organisation: Food Ethics Council

Respondent type: Registered charity and company limited by guarantee

Who we are

1. The Food Ethics Council is a registered charity whose mission is to accelerate the shift to fair food systems that respect people, animals and the planet. Our vision is of a world where it is easy to eat well and global hunger is a distant memory; where farmers and food producers make a decent living, animals are treated humanely, and the environment is respected.
2. We were founded in 1998 and are considered by stakeholders to be experts on fairness and sustainability in food and farming, and the leader on ethical food issues. For over 25 years, we have provided an independent voice and expertise from our Council and networks (across civil society, business and government) to bring ethics to the centre of food systems. We ask the hard questions and bring people and organisations together to find ‘in the round’ solutions to contentious issues relating to food and farming. The Food Ethics Council is an expert body consisting of up to 20 Council members, leaders in their fields, bringing extensive networks and a range of expertise, from academic research and ethics through to practical knowledge of farming, business and policy.
3. We are also part of the Groceries Code Action Network, a coalition 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, domestically and internationally.

Overarching comments

4. We welcome the inquiry into fairness in food supply chains. While there are examples of good practice in parts of the agri-food sector, there exist deep injustices at many levels. Through our work, engaging with farmers, producers, major retailers, civil society and policymakers, we know that there are sizeable power imbalances in the current industrial food system. These put pressure on people in different parts of the chain, particularly smaller producers & farmers, as well as pressure on nature, climate and farmed animals.
5. We are supportive of the notion of an adjudicator/s acting proactively and reactively to prevent, and react to, unfair dealings in food supply chains. We would like the GCA to be further strengthened, with an expanded remit. We also urge that there be a more joined-up approach, rather than separate Codes being set up for multiple (but crucially not all) agricultural sectors in addition to a seemingly very separate GCA. We believe recommendations below will help improve the current situation.

Responses to individual areas

Effectiveness of GCA to enforce the GSCOP

6. We believe the impact of the GCA on the wider groceries market has been overwhelmingly positive. The need for an independent Adjudicator remains, with appropriate powers and remit. Market and political power in the food system is still concentrated in the hands of relatively few companies. The GCA has by and large used its powers to good effect to prevent further increase in unfair trading practices in major

food retailers' supply chains. Supermarkets have been challenged where they have been shown to be breaking the Code. We believe that the GCA should be prepared to inflict fines and other sanctions within its powers, to discourage or prevent future unfair practice. It is vital that major food retailers are held to account – hence we broadly welcome the mix of proactive and reactive approaches that the GCA has taken since its inception.

7. Major food businesses have not always been held accountable for their actions, which has led to allegations of abuse of power and unfair treatment of suppliers, particularly with certain retailers. The introduction of the Groceries Supply Code of Practice and then the GCA was hugely important in beginning to address unfair trading practices in food supply chains. As recent inflationary pressures have impacted cost prices for suppliers, the continued trajectory of retailer compliance with GSCOP has halted, with a race-to-the-bottom on price at the checkout. Farmers' incomes are being squeezed, with many farmers having already had to leave the sector and many others vulnerable.
8. Because the GSCOP only applies to specific retailers and their direct suppliers, indirect suppliers and the majority of farmers have until recently been entirely unprotected. This means that unfair practices that originate with the retailer, such as unilateral contract changes and delayed payments, can be passed down food supply chains to areas not covered by the GCA.
9. Now is the time to further strengthen the GCA. The GCA must not be allowed to fall victim to any desire to reduce (so-called) 'red tape'. Having spoken to lots of farmers, growers, food manufacturers and others over several years, we strongly believe that the GCA should be retained. We feel it is important to have a regulator with the remit and specialist experience to tackle unfair purchasing practices in the groceries sector.

Potential merits & demerits of expanding scope of GSCOP, and other potential reforms to GSCOP, including potential benefits & risks of lowering turnover threshold for which retailers are covered

10. Currently only direct suppliers of the 14 largest retailers fall under the scope of the GSCOP and under the remit of GCA. This means that the majority of smaller food producers and farmers are excluded. We support the Groceries Code Action Network's call for the Government to expand and strengthen the GCA's remit. This could include a 'GSCOP+' to include all upstream and mid-supply chain businesses with significant annual turnover, ensuring greater fairness and better coverage. This could be overseen by deputy adjudicators within the GCA, with a GSCOP+ code designed for business-business relationships within the supply chains that ultimately serve the largest retailers. This could be done using powers the government already has under the GCA Act (2013).
11. We note that the Competitions and Markets Authority ('CMA') has the power to designate those that come under the Code and that the recently appointed interim Chair of the CMAⁱ used to be the Country Manager of Amazon UK, one of the retailers now under the scope of the GSCOP. We highlight the potential for a conflict of interest here.

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

12. Under the Agriculture Act 2020, Defra has set up the Fair Dealings Obligations (Milk) Regulations, which are now in force, and is setting up other narrow sectoral codes. These codes are due to be overseen by the recently established Agricultural Supply Chain Adjudicator ('ASCA'), overseen by Defra.
13. We welcome moves to address unfair dealings, including with farmers. Indeed in our three-year Dairy Projectⁱⁱ, where we engaged with a number of dairy farmers from different parts of the UK, one of the collective asks developed was to create secure, fair and flexible contracts. Food Ethics Council also coordinated a joint letter in 2023ⁱⁱⁱ that pushed at the time for a more robust dairy code of conduct, with some positive effect. In the absence of other mechanisms, we welcomed the introduction of the Fair Dealings Obligations (Milk) Regulations, albeit it is too early to gauge how successful that is being.

However, we are worried about the potential for an increasingly siloed approach, with only some sectors covered and only at the farming stage.

Benefits & risks of sector specific approach to introduction of fair dealing powers under Agriculture Act

14. We acknowledge that there are differences in the ways that agricultural sectors operate, including how much concentration of power there is and how value chains are structured. Therefore an approach is needed that takes into account different needs of different sectors. However, we believe fundamental issues around unfair trading practices exist across all sectors, hence a more joined up and comprehensive approach would be more effective.
15. The new sectoral codes risk perpetuating regulatory fragmentation and market distortion. The split of GCA and ASCA (with its sector specific approach) brings with it a number of key risks:
 - (i) Processors going out of business resulting in farmers having no market to sell into
 - (ii) It may become more convenient for buyers to source from overseas supply chains, where there may be less protection, putting UK suppliers at a competitive disadvantage
 - (iii) Intermediaries may be created with the sole purpose of evading both GSCOP and the new Agriculture Act
 - (iv) Small mid-supply chain processors are at risk of being pushed into administration, because they may be subjected to retailers' unfair trading practices, but need to (rightly) ensure they treat the farmers in compliance with the new fair dealing codes.

Scope for collaboration between Agricultural Supply Chain Adjudicator and Groceries Code Adjudicator

16. We understand that there is currently no mechanism in place by which the GCA gets informed by the Agricultural Supply Chain Adjudicator in circumstances where there is reasonable suspicion that actions by the retailer, in breach of GSCOP, caused a breach of the relevant sector code e.g. horticulture or pork. The ASCA may be able to address farmers' experience of unfair trading practices. However if the cause of that unfair trading practice originated with food retailers, the retailers will get away with passing unfair trading practices in breach of GSCOP.
17. We recommend giving the new Agricultural Code Adjudicator/s the capacity and mandate to share relevant information with the GCA to prevent a fragmented approach that fails to hold retailers to account for initiating unfair purchasing practices. We recommend that Defra and the Department for Business and Trade establish a formal, mandated mechanism for information sharing between the adjudicators to foster a more coordinated approach for addressing, and seeking to prevent, unfair practices.

Submitted by:
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January 2025

ⁱ 'Former Amazon boss named interim chair of CMA' (2025) – press release
<https://www.gov.uk/government/news/former-amazon-boss-named-interim-chair-of-cma>

ⁱⁱ Food Ethics Council (2024) Dairy Project Final Report https://www.foodethicscouncil.org/wp-content/uploads/2023/12/DairyProject_FinalReport_10.1.23-min.pdf

ⁱⁱⁱ Food Ethics Council (2023) – joint letter re dairy code of conduct <https://www.foodethicscouncil.org/opinion/joint-letter-to-defra-on-dairy-code-of-conduct/>