

## Response of the Food Ethics Council to the Groceries Code Adjudicator Statutory Review

Submitted 8<sup>th</sup> September 2019

**Name:** Dan Crossley

**Organisation:** Food Ethics Council

**Address:** Hub Kings Cross, 34b York Way, London, N1 9AB

**Telephone number:** 0333 012 4147

**Email address:** dan@foodethicscouncil.org

**Respondent type:** Charity (registered charity and company limited by guarantee)

### Summary

The Food Ethics Council was one of several organisations that argued for the original introduction of the Code to reduce the likelihood of further abuses of power in the UK food system. **We strongly believe 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.** We believe the collaborative approach taken by the GCA has generally been effective. However, we believe that the GCA should undertake investigations more frequently to hold retailers properly to account for breaches of the Code and thereby act as a deterrent to retailers. **We continue to believe that the GCA should be further strengthened, with its remit extended.** The Government should ensure there is regulation to cover the entire supply chain in food and farming, either extending the GCA's role or introducing another regulator to complement the GCA.

### Who we are

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.

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 20 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 the food system. Our role is three-fold:

- i. Firstly, we *nourish*: we provide a safe space for honest, meaningful dialogue and develop ethical frameworks to unpack contentious issues
- ii. Secondly, we *challenge* the status quo and accepted ways of thinking
- iii. Thirdly, we *inspire* and promote 'in the round' ethical approaches and share considered solutions.

The Food Ethics Council is an expert body consisting of 19 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.

### Context

Market and political power in the food system has become concentrated in the hands of relatively few organisations in recent decades. The resulting economies of scale have enabled customers to access wide product ranges at affordable prices. However, 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 in some instances. **The introduction of the Groceries Supply Code of Practice and the GCA has been hugely important in beginning to tackle unfair trading practices in food supply chains.**

The Food Ethics Council has participated in the Groceries Code Action Network (GCAN) coordinated by Traidcraft and Sustain: the alliance for better food and farming, and involving a range of organisations in food and farming. This response is from the Food Ethics Council only.

## Part 6

### Questions for any other interested parties

#### **4. What do you believe has been the impact of the GCA on the groceries market?**

The Food Ethics Council believes that overall the GCA has had a positive impact on the groceries market. It has used its powers to good effect to prevent further increase in unfair trading practices in the direct supply chains of the major food retailers within its remit. We welcome the pragmatic approach taken by the GCA and the balance it has struck between being proactive and reactive. The benefits of the proactive element of the GCA's work in particular are hard to quantify, but nevertheless are hugely important. Crucially, however, the GCA has been limited by the narrowness of its remit and it could have been even more influential than it has been if it had extended powers. The forthcoming Agriculture Bill contains provisions that could be used to ensure fair treatment of primary producers in their supply chain relationships – hence we urge the GCA to work closely with any new regulator.

#### **5. How effective do you consider the GCA has been in exercising her powers:**

##### a) In providing arbitration?

We are not aware of the GCA currently managing any open arbitration processes, which reflects the emphasis taken by the GCA on a collaborative approach taken, where she seeks to resolve issues without needing to resort to formal proceedings.

##### b) In conducting investigations and undertaking enforcement activity?

We would like to have seen the GCA more active in conducting investigations, given that it has only had run two investigations in six years. We are not advocating investigations for investigations' sake. However, we believe the investigative powers of the GCA are an important way that it can tackle unfair purchasing practices and that the GCA could have been more proactive.

There are lots of potential reasons why the GCA has conducted so few investigations. One could be that there are no breaches of the Code to investigate. However, according to the GCA's latest supplier survey, 41% of suppliers that responded experienced a Code-related issue in 2019 – this is improving, but nevertheless it is evidence that there are still too many Code breaches taking place. Another reason could be that investigations are too resource- and time-intensive. We acknowledge that the GCA has a small staff team and limited resources and time. Nevertheless, there are no statutory limits on the GCA's budget or staffing levels and the team could therefore potentially be larger to give it more capacity. We also support the idea of Deputy Adjudicators being brought in, to relieve some of the pressure on the GCA herself to read and process all documents that form part of an investigation.

We believe the GCA should punish infringements of the Code appropriately, including being prepared to apply a fine to a retailer that breaches the Code. Doing so would act as a deterrent to other retailers. It would also send a positive message to suppliers that unfair trading practices, when highlighted, should not be tolerated.

##### c) In providing advice, guidance and recommendations?

From what we have observed, the GCA has continued to provide clear advice, guidance and recommendations in its external communications with stakeholders. She has provided interpretive guidance and has applied the Code flexibly. This is important because it is impossible for a legal code to have a fully exhaustive list of Code non-compliant practices. Whilst working closely and proactively with the major retailers has delivered some positive results, we would caution the GCA of becoming – or appearing to become - too close to the retailers. The GCA must remain independent and food suppliers will expect the GCA to hold retailers to account, ensuring they fully comply with the Code. We do not support introducing self-regulation of the sector and do not believe that a voluntary approach would be effective.

**6. Do you think the GCA has been effective in enforcing the Code?**

Yes  No

The GCA seems to have been largely effective in enforcing the Code, as is demonstrated by results in the GCA's Annual Survey e.g. from when the GCA was first introduced, fewer suppliers now report experiencing a Code-related issue.

To be more effective, we believe the GCA should not focus solely on UK-based suppliers, given that such a high proportion of food eaten in the UK is grown or produced outside of the UK. We would like the GCA to collaborate even more closely with counterparts in other countries. There is an opportunity here given the recent introduction of the EU's 2019 Unfair Trading Practices Directive, which means that by 2021 there will be GCA equivalents in every member state of the EU.

**Do you have any other comments that might aid the consultation process as a whole?**

Like many other organisations involved in the Groceries Code Action Network, we believe the Government should extend regulation to the entire supply chain, rather than focus only on direct suppliers of certain major retailers. We strongly support the continuing existence of the GCA, but we want its remit and powers to be increased, so that it is fit for the groceries market in 2020 and beyond.

At BEIS we carry out our research on many different topics and consultations, and your views are valuable to us. Would you be happy for us to contact you again from time to time either for research or about other consultations?

Yes  No

**Submitted by: Dan Crossley, Executive Director, Food Ethics Council  
September 2019**