



Unites response to the Department for Business Innovation & Skills (BIS) consultation on taking forward the establishment of a body to monitor and enforce compliance with the groceries supply code of practice (GSCOP), April 2010

This response is submitted by Unite the Union, the UK's largest trade union with members across the private and public sectors. The union's members work in a range of sectors including, agriculture, financial services, construction, local government, education, health, not for profit, manufacturing and food manufacturing and processing, which make up a substantial component of our overall membership.

Unite is the main union representing agricultural workers and food manufacturing and processing in the UK and Republic of Ireland. This, makes it a major stakeholder in all decisions around the monitoring and enforcement of compliance with the groceries supply code of practice (GSCOP).

Introductory Comments

- 1.1 Unite welcomes the opportunity to provide input into this debate and to provide additional oral evidence if necessary.
- 1.2 We write to record our support, following the failure to get agreement from the grocery retailers to voluntarily set up a monitoring body, for an independent body, i.e. an Ombudsman as proposed by the Competition Commission's (CC) report, that could intervene and ensure GSCOP compliance.
- 1.3 Compliance to ensure a large grocery retailer could not exert undue pressure / buyer power, such as to transfer excessive risk and unexpected costs to suppliers, or below cost selling, which would impact unfavourably on suppliers, food manufacturers and processors and workers / trade union members throughout the grocery supply chain. In addition to compliance, an ability to protect suppliers through, for example, the imposition of longer term supply chain contracts, so, for instance, workforce demands can be planned appropriately over the long-term, would be welcomed.
- 1.4 Unite agrees with the CC's belief that the code would only be effective if it was monitored by an independent body, i.e. an Ombudsman. One with teeth to monitor and enforce breaches of the code which also provides the mechanism to hear anonymous complaints.

Key Issues Which the Consultation Seeks Views on:

- 2.1 What **powers** the body monitoring and enforcing compliance with the GSCOP should have, in addition to the body being able to hear **anonymous** complaints?

In line with the CC's report, Unite supports its recommendation and believes that an independent Ombudsman should have all necessary powers needed to investigate complaints and decide disputes. These should include, information gathering powers compelling retailers to respond its information requests.

Unite also suggests that information should be sourced from alternative sources including workers from supplier organisations whose jobs may be effected by current practices, or the Ombudsman's subsequent actions. It also believes that the Groceries Ombudsman should be able to investigate anonymous complaints and be able to proactively gather information on GSCOP violations, not being wholly reliant on received complaints.

Additionally Unite believes an Ombudsman should have the power to levy significant monetary penalties on non compliant retailers.

Finally, Unite believes that there should be clear time limited periods laid down for each stage of the process, recognising how quickly suppliers can be forced out of business if retailers act unreasonably.

- 2.2 **Access** to the body?

Unite consider access to a Groceries Ombudsman should not be limited, and that indirect suppliers, i.e. suppliers that supply produce to retailers through parties such as wholesalers, should also be able to raise anonymous complaints.

Whilst Unite believes the Ombudsman should focus on those suppliers whose market power is not that of some larger suppliers, it agrees with the CC's findings that large suppliers should not be excluded on the grounds of practicality and that it would not be in the spirit of the CC's solution to work in the interests of affected parties given their significant role in supplying the market. Unite also recognises that larger suppliers are not immune from unfair pressure from retailers, particularly when producing own-brand products for retailers when they can be particularly vulnerable.

Unite also consider that workers, and the Unions who represent them, should have access to the Ombudsman as they are often able to provide a unique perspective on a situation and can make representations where employers / suppliers may be reluctant to come forward. They can also inform the Ombudsman of potential unforeseen consequences on workers involved and provide input / recommendations into how these consequences can be minimised. For example, providing proactive input as to how workers are likely to be impacted if a supply contract is to be cancelled in order to minimise such impacts.

2.3 Who the monitoring and enforcement body could be, including some possible options?

Unite agree with the CC that it should be an independent Ombudsman with the power to levy significant monetary penalties on non compliant retailers. One who not only has an understanding of the grocery supply chain, but also has an understanding of how sectoral practices impact on workers up and down the supply chain, in order to ensure their interests are protected.

2.4 Should a sanctions regime be introduced and how might it operate alongside any appeals mechanism?

Yes Unite agree that a sanctions regime should be introduced with significant monetary penalties, substantial enough to deter non compliance. In line with this a naming and shaming mechanism should be instigated for those retailers who violate the GSCOP.

Unite additionally agree that appeals should be heard by the High Court in line with the CC's recommendations and that retailers should be prevented from taking any planned action that will have a detrimental effect on any suppliers until the appeals process is exhausted.

2.5 The funding of the body monitoring and enforcing compliance with the GSCOP?

Unite broadly supports the belief that costs imposed to fund the Ombudsman should be related to the size, number and severity of complaints made and upheld against a retailer.

Conclusion / Recommendations

3.1.1 Unite's core argument is to ensure, through vigorous monitoring and enforcement, both, healthy competition within the grocery retail sector, whilst also maintaining a fair playing field for suppliers who employ our members along the supply chain from farm to fork.

3.1.2 In line with the CC's recommendations, Unite agrees that BIS should, as soon as possible, take necessary steps to establish an Ombudsman with the power to levy significant monetary penalties on non compliant retailers to ensure a fair playing field for suppliers, to not only their ultimate benefit, but to that of their workers / our members and consumers.

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