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(Remedies)/317-09

SENT BY E-MAIL AND POST

Dear Tim,

**CONSULTATION ON THE INTRODUCTION OF AN OMBUDSMAN TO OVERSEE THE
GROCERIES SUPPLY CODE OF PRACTICE**

I write on behalf on the *Grocery Market Action Group* (formerly the *Cross-Cutting Group*)* in response to the formal consultation on the introduction of an Ombudsman to oversee the Groceries Supply Code of Practice.

Several members of the Group will also be making their own individual submissions to the consultation. Notwithstanding that, I write as Chair of the Group to present several comments and recommendations on the proposed Undertakings which have been discussed and commonly agreed by the Group as a whole. I enclose a list of these comments and suggested amendments with this letter.

Further to our informal comments on the draft Undertakings which were submitted to the Commission at the end of last year, there are a number of areas in which we feel the Undertakings could be clarified or amended in order to better address the adverse effects on competition which were identified by the Competition Commission in its Final Report of 30th April 2008. Our main comments are set out briefly below:

- We welcome the Commission's proposed involvement in the initial selection of the person to fill the office of Ombudsman and the Commission's assertion that this should be "someone with the standing to enjoy the respect of both retailers and suppliers". However, it is unclear whether the Commission will continue to have a role in subsequent appointments or whether these will be solely the responsibility of the Office of Fair Trading?
- We suggest that a review mechanism be established so that the performance of the Ombudsman can be assessed according to his/her effectiveness in performing the functions set out within the Undertakings.
- The functions of the Ombudsman should be amended to make clear that the primary purpose of the Ombudsman is to reduce or cease the transfer of excessive risk and unexpected costs onto suppliers as set out in the Commission's Final Report.
- The Ombudsman should to be able to initiate investigations on the basis of, amongst other
.../...

things, any information in the public domain, information given to him/her by organisations with active knowledge of supply chain dynamics, or his/her own market analysis. The Undertakings as currently drafted only allow the Ombudsman to launch an investigation on the basis of a complaint, and, only after this, may other information be taken into account. We feel that this change is important in order to remove any suspicion on the part of retailers that a specific supplier complaint is responsible for each investigation and, in turn, to give suppliers greater confidence in coming forward when they feel a breach of the GSCOP has taken place.

- The Undertakings as currently drafted only give the Ombudsman the power to ‘recommend’ that retailers make improvements to their compliance procedures. In order to properly address the adverse effects on competition identified by the Commission it is vital that the Ombudsman be able to ‘direct’ retailers to comply with its recommendations.
- Screened for commercial sensitivity, the Ombudsman’s regular reports to the OFT should be placed in the public domain so that interested third parties gain confidence in the Ombudsman’s effectiveness in handling complaints and improving compliance with the GSCOP.
- The requirement for the Ombudsman to only ‘have regard’ to the need to protect the identity of a complainant is not strong enough to reassure suppliers who wish to make complaints regarding breaches of the Code regarding their anonymity. We believe that this should be strengthened so that the Ombudsman may only disclose the identity of a complainant unless permission has been specifically given by that complainant.

Finally, I would like to thank the Competition Commission for the significant progress that has been made in identifying and attempting to remedy the problems in the grocery supply market. I hope that those key points set out above, along with the more detailed set of comments and amendments enclosed with this letter, can contribute the development of an effective Ombudsman to enforce the GSCOP in a manner which properly addresses the issues identified by the Commission in its final report.

My colleagues and I would, of course, be happy to meet with the Commission to explain our position in further detail, if you thought that might help.

With every good wish.

Yours sincerely,

Andrew George MP

* The *Grocery Market Action Group* was set up by Andrew George MP with a view to achieving consensus on some key issues relating to the Competition Commission’s Inquiry into the UK grocery sector. The group includes **Friends of the Earth, Association of Convenience Stores, Campaign to Protect Rural England, Rural Shops Alliance, Country Land and Business Association, Association of Master Bakers, British Independent Fruit Growers Association, Action Aid, Traidcraft, British Brands Group, National Farmers Union of England and Wales, National Farmers Union of Scotland, Banana Link, War on Want and Breaking the Armlock Alliance.**