

Mr P J Freeman Esq  
Chairman  
Competition Commission  
Victoria House  
Southampton Row  
LONDON  
WC1B 4AD

Wednesday, 7 June 2006

Dear Mr Freeman

**Submission to the Groceries Market Inquiry**

Please find attached my submission to the Groceries market inquiry.

As you will know, the impact of supermarket dominance in the groceries market on competition and sustainable development has been an area of concern for the Liberal Democrats for some time.

In our submission we build on our previous campaigns and seek to address some of the most recent developments in the sector.

I look forward to the results of your inquiry.

Yours sincerely

Roger Williams MP  
Liberal Democrat Shadow Rural Affairs Minister

## **Introduction**

Liberal Democrats have long been ahead of the curve in highlighting the impact of growing supermarket dominance in the groceries market on competition and sustainable development, particularly in rural areas.

The 1998 'Checking out the Supermarkets' report of our then Consumer Affairs spokesman, Colin Breed MP was one of the first political agendas for action. It is an issue to which we have returned time and time again, most recently in the call by of our Shadow Environment Secretary, Chris Huhne MP, for a full scale Competition Commission inquiry into supermarket power at the LGA's Sustainable Communities conference in February 2006.

Now it seems others are beginning to catch up.

In 2005, The Conservatives took a faltering first step to address this issue by pledging to tighten the supermarket code. At the beginning of this year, the All Party Parliamentary Small Shops Group - comprising MPs from across the political spectrum - urged consideration of long-term effects of supermarkets on competition. Even the Government now appear willing to look beyond the narrow confines of short-term consumer gain: just last month, DEFRA Minister, Ben Bradshaw promised that the Government would "write to the Competition Commission to suggest that its investigation should include the impact of supermarket power on the long-term viability of suppliers and producers in the UK".<sup>i</sup>

In the context of recent progress towards a consensus on the need for more action to counter the negative outcomes of supermarket dominance, Liberal Democrats were delighted at the OFT's referral to the Competition Commission and welcome this opportunity to respond.

### **Key Recommendations:**

**The Competition Commission investigation must emphasise sustainable development and the longer-term interested of consumers, including the impact of grocery market consolidation on:**

- **long-term plurality in local shop provision and a vibrant high-street**
- **the environment**
- **the supply chain & sustainable food production**

**In order to give sustainable development its rightful place in competition considerations of the grocery market, we propose:**

- **a tougher, legally binding code effective for the whole food chain from farm to fork to ensure all supermarkets do not exploit suppliers, farmers or consumers**
- **the establishment of a Food Trade Inspector (FTI) within the OFT with powers to investigate proactively abuse of market power**
- **an investigation into failing confidentiality guarantees for complaining suppliers and farmers to be undertaken by the new Food Trade Inspector**

- **better support and advice to suppliers and producers considering forming co-operatives**
- **a tougher approach to persistent below-cost pricing policies**
- **the imposition of quotas on supermarkets for sourcing products locally**

## **Context**

Supermarkets hold an extraordinary position of power in the UK.

In 2005, total grocery sales were around 95 billion, representing around 13 per cent of all household spending in the UK.<sup>ii</sup>

£88 billion (or nearly 75 per cent) of sales occurred in stores larger than 280 square metres. Just over 2,000 of these stores are supermarkets of which around 1,700 are operated by the Big Four (Tesco, Sainsburys, Asda, Morrisons).<sup>iii</sup>

This supermarket revolution has undoubtedly brought many benefits. In-store variety, lower prices, cleanliness, efficiency, and even convenience meals.

Yet as the grocery market consolidates more and more, the negative consequences of supermarket power have become increasingly apparent.

- Between 1965 and 1990, 15 per cent of small rural settlements experienced the closure of their last general store or food shop.<sup>iv</sup>
- Between 1991 and 1997 a total of 4,000 food shops closed in rural areas.<sup>v</sup>
- From 1997-2002, 50 specialised stores such as butchers, fishmongers and newsagents closed every week across the UK.<sup>vi</sup>

The death of many high streets and rural communities has often been accelerated by growing supermarket dominance. Supermarkets have also undoubtedly contributed to economic hardship among small producers, such as farmers, and the climate menace of food miles.

Yet supermarket managers can only take part of the blame for these negative consequences. After all, they have a legal duty to maximise profit for their shareholders. Rather there is a regulatory vacuum in the space of the long-term interests of consumers and competition.

Previous inquiries have made sound judgements based on the short-term interests of consumers and competition. Indeed, consumers undoubtedly benefit in the short-term from supermarket dominance in the grocery market and ever lower prices.

Yet this is not sustainable. It is in the interests of consumers – and the supermarkets themselves - that suppliers and producers are not driven out of business. It is in the interests of consumers and supermarkets that unnecessary air miles do not contribute to untold long-term damage to the environment. And it is in the interests of competition that supermarkets are kept honest by the continued existence of small and independent grocery suppliers offering consumers a choice of store and variety of products not catered for by the 'big four'.

For these reasons we make the following proposals.

## 1. Legally Binding Code of Practice

The voluntary Code of Practice has clearly been failing. The promised transparency of a paper trail recording supplier/buyer transactions has failed to materialise. Deals are not being put on paper. Practices against the public interest, such as retrospective reduction in prices, exorbitant obligatory payments for promotions and unfair third party tie ins, cannot be monitored if they occur only by telephone.

Even if such practices were captured on paper, the equivocal language of the Code – not least the occurrence of the word ‘reasonable’ 16 times – would make light work for supermarket lawyers defending their practices.

As vague as it is, the Code also fails to protect the suppliers’ suppliers – the producers, farmers and very foundation of the supply chain. There is at present no mechanism to prevent supermarkets achieving artificially low prices by leaving the practices against the public interest to their suppliers.

For example, while retail prices for milk have stayed static since 1995, prices paid to producers have dropped by a third. It’s little surprise that the number of dairy holdings has halved in the past decade, in part as a result of the squeeze in prices.<sup>vii</sup>

**Liberal Democrats believe we need a tougher, legally binding code effective for the whole food chain from farm to fork to ensure all supermarkets do not exploit suppliers, farmers or consumers.**

**Such is the importance of ensuring fair trading along the food chain, we would also establish of a Food Trade Inspector (FTI) within the OFT with powers to investigate proactively abuse of market power.**

## 2. Confidentiality Investigation

Since the supermarket code of practice was introduced in 2000, there have been no complaints by suppliers or producers and three-quarters of suppliers fear complaining<sup>viii</sup>

Although we believe our proposed tougher, legally binding code and a proactive Food Trade Inspector would help to both reduce the need for complaints and to increase the recourse to an effective complaint system, it is essential that all suppliers and farmers dependent upon supermarket contracts are utterly confident that any complaints can be made confidentially.

**We therefore propose an investigation into failing confidentiality guarantees for complaining suppliers and farmers to be undertaken by the new Food Trade Inspector**

## 3. Support for Suppliers and Producers

Supermarket suppliers enter negotiations in a position of weakness. This is often not just as a result of the huge financial muscle of the buyers (for example, Tesco alone makes profits of £228,000 an hour<sup>ix</sup>) but also due to the lack of coordination between small suppliers, such as individual farmers.

In Britain, this is a particular problem. The output of agricultural cooperatives here is one-third of that of the rest of farming business. In Sweden cooperative output is twice the size of non-cooperative farming output.<sup>x</sup>

**Liberal Democrats would seek to provide better support and advice to suppliers and producers considering forming co-operatives.**

#### 4. Persistent Below-Cost Pricing

The Competition Commission identified that the “practice of persistent below-cost selling when conducted by [the big four] operates against the public interest”<sup>xi</sup>

The most salient recent example has been a local supermarket in Withernsea called Proudfoot, whose Managing Director gave evidence to the APPSSG. The group reported:

“Proudfoot is considered to be a good business, winning an award for the best independent retailer of the year in 2002. The Proudfoot Supermarket offers Post Office services, a restaurant and car park. Following the unsuccessful attempt to purchase the Proudfoot Supermarket, Tesco opened a competing store which struggled to attract consumer spend. Tesco resorted to a campaign of offering customers £8 off for every £20 spent in their Withernsea branch. This amounted to a 40% discount across the range. Despite a lack of transparency in the margins of national multiple grocers it is estimated that Tesco operate on a margin of between 25% - 30%, which indicated that this was below-cost selling. That this promotion was limited to the Withernsea catchment, further indicates that this was a predatory act which has damaged the Proudfoot Supermarket.

“The impact of this promotion has been devastating for our business. Whereas we used to be a thriving part of the high street, we are now a marginal business. This not due to inefficiency or any lack of innovation or quality of service on our part.”

Following increased footfall for the Tesco store, their prices returned to a level closer to the national average.”

Proudfoot is not the only business that is acutely aware of the phenomenal buying power of supermarkets. 36% of small shop owners buy special offer goods from supermarkets to resell in their stores as supermarkets can sell products to them cheaper than wholesalers.<sup>xii</sup>

**Liberal Democrats believe we need a tougher approach to persistent below-cost pricing policies.**

## 5. Supermarket Local Production Quotas

Long-term competition and sustainable development in the grocery sector require a viable environmental and economic climate in which to operate. While supermarkets have raised their efforts to source produce locally (especially their organic produce), far more needs to be done.

Supermarket lorries travel up to 670 million miles per year.<sup>xiii</sup>

£10 spent with a local food initiative generates £25 to the local economy compared to just £14 with a supermarket<sup>xiv</sup>

### **Liberal Democrats would therefore impose quotas on supermarkets for sourcing products locally**

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<sup>i</sup> Hansard, 18 May 2006, Column 1129

<sup>ii</sup> IGD (August 2005), *Grocery Retailing*, page 11

<sup>iii</sup> IGD (August 2005), *Grocery Retailing*, page 11

<sup>iv</sup> DETR, Rural White Paper, Chapter 1, November 2000

<sup>v</sup> DETR, Rural White Paper, Chapter 1, November 2000

<sup>vi</sup> New Economics Foundation (NEF). 2003. [http://www.neweconomics.org/gen/news\\_GTBII.aspx](http://www.neweconomics.org/gen/news_GTBII.aspx)

<sup>vii</sup> Compiled from DEFRA figures, Hansard, 6 Jun 2005, Col. 258W and 8 Jun 2005, Col. 568W; NFU Briefing, 'Dairy Farming and The Dairy Industry' (June 2006)

<sup>viii</sup> OFT, *Review of Supermarkets' Code of Practice*, February 2004

<sup>ix</sup> Statistics from TNS. Quoted at <http://news.bbc.co.uk/go/pr/fr/-/1/hi/business/4694974.stm>

<sup>x</sup> EFPF quoted in Farmers struggle with the supermarket squeeze, BBC News online, 2.09.04

<sup>xi</sup> Competition Commission, *Supermarkets: A report on the supply of groceries from multiple stores in the United Kingdom*, 2000

<sup>xii</sup> The Grocer quoted by British Chamber of Commerce: *Shops admit to reselling supermarket goods*, 23.11.05

<sup>xiii</sup> Norman Baker MP, *How Green is your Supermarket*, March 2004, based on results of a large survey of supermarkets

<sup>xiv</sup> Corporate Watch, *What's Wrong with Supermarkets*, Feb. 2002, quoting New Economics Foundation