

Suppliers scared to blow whistle on big retailers

Adjudicator's survey reveals disinclination to complain of sharp practice. By Sarah Butler

A survey for the Groceries Code Adjudicator has shown that the suppliers of food are reluctant to complain of bullying by supermarket buyers.

The survey, which comes just days after the watchdog's head, Christine Tacon, announced an investigation into the way Tesco does business with suppliers and urged people to come forward with evidence of malpractice.

The findings will put pressure on Tacon, who was appointed in 2013 to oversee the Grocery Supply Code of Practice that was introduced in 2001 after a Competition Commission inquiry.

In an indication of their fears, only 45 of 128 suppliers approached responded to the survey, which sought to establish how they were faring under the new regulatory regime, put in place over a year ago. The majority of those said they did not think retailers had changed their practices in the past six months.

Nearly half of those who responded said they had suffered incorrect deductions from invoices, the most common complaint. The next most frequent problem, experienced by 44% of respondents, was a disputed demand for charges, which could be backdated for up to six years, or for a lump sum payment higher than previously agreed.

Suppliers also complained of demands for fees in return for the right to be stocked by a retailer, lack of compensation for orders being lower than agreed, and instances of products being removed from shelves without reasonable notice.

Several suppliers told the watchdog they were concerned it did not have sufficient power to bring about real change or protect them. One said it wanted to see "proof that the GCA has 'teeth' and evidence it can act against retailers, without suppliers being implicated".

Tacon said in her latest news update that the issue of "forensic auditing" – where retailers search several years' worth of suppliers' accounts for money they might be owed – had been resolved but some suppliers were not convinced. One pointed out that Sainsbury's and Waitrose had opted out of a voluntary agreement, signed by eight other retailers, to put a time limit on such searches.

Others said they could not be sure their complaints to Tacon would not get back to clients and cost them business.

David Sables, a consultant who advises suppliers on negotiation tactics, said: "Retribution can come in many ways, and ways in which it would be very difficult for the GCA to identify – Buyers can kill you and make it look like an accident."



The Groceries Code Adjudicator, Christine Tacon, is taking on Tesco. Photograph by David Levene for the Observer.

THE BIG ISSUES

Complaints (% of suppliers reporting)

- 47% Incorrect deductions from invoices
- 44% Incorrectly seeking charges going back up to six years
- 44% Demand for lump sum payments higher than agreed
- 38% Demand to pay listing fees (to get goods on shelves)
- 35% Demand to use a particular packaging supplier
- 32% De-listing without reasonable notice

In her latest news update last Friday, Tacon insisted that "despite the current challenges in the sector, more respondents believe that relations with retailers have improved than think they have worsened."

Suppliers' concerns about the extent of Tacon's powers echo the adjudicator herself, who has complained it has taken the government more than a year to put forward legislation giving her the power to fine retailers up to 1% of turnover for breaches of the code. The delay has meant Tacon will not be able to fine Tesco, no matter what the outcome of her investigation, as she will only be able to impose penalties for breaches that take place after MPs approve her powers.

Launching her investigation into Tesco last week, Tacon urged suppliers to come forward if they had evidence of breaches of the code by supermarkets. She said she could widen her inquiry

if she had reasonable grounds for suspicion that others were not complying. She can force companies to give evidence and said she would protect the anonymity of anyone giving information.

Tacon launched her probe into Tesco after she reviewed the findings of an internal investigation carried out by accountancy firm Deloitte for the supermarket, in the wake of last September's £26.3m accounting scandal relating to supplier payments.

She said she was looking at possible violations by Tesco involving many suppliers and large sums of money, including penalties being imposed when Tesco claimed items were missing from deliveries; charging suppliers more than an item cost if a customer returned it; delaying refunds when it incorrectly issued duplicate invoices; and imposing charges for in-store promotions that were either incorrect or not agreed.