

As retailer behaviour improves should the Adjudicator go harder or go home?29 Jun 2018 | [Ian Quinn](#)

Christine Tacon, Groceries Code Adjudicator

There have been questions raised over the remit of the Groceries Code Adjudicator pretty much since the day she took office.

First there were doubts that Christine Tacon's office had any teeth, accentuated when her first investigation, into Tesco's mauling of suppliers in 2014, came before the GCA inherited powers to fine retailers.

More recently, after years of leading farmers up the garden path, MPs backtracked on plans to extend the Adjudicator's role to cover primary producers, while just this month MPs said they wanted the role extended to protect suppliers from the Sainsbury's-Asda merger.

But the latest question marks over the role came from the Adjudicator herself, at her annual conference in London this week, when she revealed improvements in retailer behaviour meant there were no "current issues" for her to deal with.

So is it a case of job done? Should the Adjudicator and her team pack up their bags and go home? Certainly this week's table of retailer behaviour, based on a YouGov survey of more than 1,000 suppliers' responses, shows a dramatic turnaround in retailer behaviour since the first came out in 2014. At that time Tesco was, as revealed later in Tacon's investigation report, illegally deducting millions from suppliers and delaying payments to inflate margins.

Yet this week's survey saw Tesco leapfrog Sainsbury's to sit narrowly behind Aldi at the top of the league. Morrisons, bottom of the league in that initial survey, was also one of the most improved. So too was Asda, a year after narrowly avoiding an official investigation for its mistreatment of retailers under Project Renewal. Perhaps most ironic of all, the Co-op, subject of Tacon's ongoing investigation into its treatment of suppliers, was also one of those seen to be most improved.

Engaged retailers

Tacon claims it's no coincidence the retailers she has probed are those showing the biggest improvements.

"I've done five case studies, I'm on two investigations," says the Adjudicator. "Those involved every one of those four and when I've intervened and worked with them on case studies you can see there is massive improvement.

"Tesco has gone to second, Morrisons has gone from bottom to fifth, that's pretty mega. Tesco, Morrisons and Asda have put in improvements teams." The way retailers engage with me is all about how they can put in the right processes so they don't breach the Code. I'm just at that point now with the Co-op.

"Retailers are actually changing their systems, they are not just responding to the questions that I've raised.

"Clearly you have to be towards the bottom of the pile to start with to be the most improved, but it's a result of that intensive engagement.

"A case study is not just a couple of weeks' work. In some cases it's almost a year of working with them as they commission their own internal work, costing them hundreds of thousands."

John Noble, director of British Brands Group, claims there has been an "absolute metamorphosis" in the way retailers deal with suppliers under Tacon's watch.

"What's really noticeable is the squeezing of the gap between those at the bottom of her table and those at the top," he says.

As a sign of the step change in behaviour, the range of retailers seen to be complying 'consistently well' or 'mostly well' ranged from 84% (Iceland) to 97% (Aldi and Tesco), compared with a range of 58% to 90% in 2014. Only 40% of suppliers reported having a Code issue, compared with 80% in 2014 and 56% last year.

Tacon's list of top issues, which in 2014 consisted of problems reported by between 33% and 45% of suppliers, has shrunk so much that this year's top issue, delay in payments, was reported by less than 20%.

Tacon's admission in her announcement that there is "no pressing top issue" for her to monitor may raise questions, not least from MPs who are desperate to unleash the adjudicator against Sainsbury's and Asda to stop them putting the squeeze on suppliers.

But the Adjudicator claims her investigation into the Co-op, as well as the prospect of setting her sights on a new raft of retailers, is what will take the GCA into fresh territory.

"My riposte to those who might say it's job done, is to look at the Tesco investigation and the recommendations that came out of that. You can see I'm still talking about them now. There were recommendations for the whole sector.

"I think what's highly likely is that coming out of the Co-op investigation there will be understanding and things that will influence the whole sector again.

"Second, if I get to cover some retailers that suppliers have been raising issues with me about, that will be a vast amount of work to bring them up to the same standard."

The Competition & Markets Authority is expected to name at least two new retailers to be policed by Tacon in August, though The Grocer understands Amazon, Ocado, Alliance Boots and B&M Stores are all destined to come under Tacon's remit.

Tacon, who also this week revealed she has written to Holland & Barrett slamming its claim to be Code-compliant, is clearly keen to get stuck in to new retailers.

But Tacon is also warning of the perils of trying to modify her role to stand in the way of the dominance of a merged Sainsbury's-Asda.

"If MPs think that my job is to stop Sainsbury's and Asda squeezing suppliers then they need to read the Code again," she says. "If Asda and Sainsbury's get two suppliers to compete for the lowest price and one of them loses the businesses, all I can do for the loser is to make sure they are given sufficient notice. I can't do more than that.

"So if anyone gets put out of business I've not been set up to protect them in that way.

"I don't want anybody to think I will be able to protect them. If the government wants someone to protect suppliers then they need to make sure that the regulation allows them to do that.

"But that's what happened with the Milk Marketing board wasn't it? And then everyone complained because it pushed prices up!"

"My ambition is to get me the right retailers. Give me the retailers that need to be regulated because they are taking advantage of suppliers and I will grasp that with both hands."

Ultimately it will be down to the CMA and ministers to decide which path the Adjudicator goes down next. But even for those many suppliers dreading the might of Sainsbury's, the prospect of powerful new players like Amazon being persuaded to take big supplier concerns more seriously, as Tacon's track record suggests they will, offers at least a chink of light.