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## **FROM THE UFU PRESIDENT**

### **GCA REVIEW SUBMISSION**

Thank you for the opportunity to respond to this very important stakeholder engagement document. The Ulster Farmers' Union (UFU) is the largest farming organisation in Northern Ireland representing approximately 11,500 farming families. The UFU represents farmers from all areas of Northern Ireland and across all sectors. The UFU has a vision of a productive, profitable and progressive farming sector and welcomes this review of the GCA as both a mechanism to evaluate the GCA but also provides an opportunity for input from members and producers in light of the challenging circumstances facing the industry. The UFU believe the GCA performs an essential role in a modern, sustainable and competitive grocery market in the UK life.

There are, however, improvements which need to be made to increase awareness of the GCA amongst suppliers to address the culture of fear and business reticence which still prevents suppliers from reporting issues to the GCA.

Against a challenging economic backdrop with rising inflation, supply chain relationships are under pressure which places even more importance on the Groceries Supply Code of Practice (GSCOP). To dilute or weaken the role of the adjudicator primarily puts both consumers and suppliers at risk but it would also erode our national food resilience at a time the sector is highly vulnerable. Since its creation in 2013 the GCA has continued to improve the trading behaviour of the regulated retailers, evidenced by the fact that suppliers experiencing any code-related issues has decreased year on year from 2014 – 2021.

The UFU is strongly of the view that transferring the GCA's functions into another public body such as the CMA or removing the GCA altogether, would have hugely damaging impacts on the groceries sector and ultimately the end consumer. Having a dedicated adjudicator with specific powers has proven vital in adding power and gravitas to the role and as a result has driven noticeable change.

Government has recognised the strategic importance of domestic food production and our food resilience and has instigated initiatives to strengthen producers negotiating position in the supply chain. It would be counterproductive for another arm of government to undermine this effort and weaken producers and suppliers' position.

## **Questions**

### **1. Have you engaged with the GCA?**

Yes, the UFU has engaged with the GCA as part of the wider work to develop relationships throughout the supply chain. We value the role that the GCA plays in delivering a fair and transparent supply chain for our members.

### **2. If yes, how often?**

Rarely, given our membership is primarily made up of primary producers who are unfortunately not covered directly by the GCA. We continue to advocate that the GCA's remit needs to expand to protect those producing and supplying primary products, both indirectly and directly into the supply chain.

### **3. How satisfied were you with how the GCA handled your issue?**

- Not applicable

### **4. If you are a representative group (e.g. a trade association), would you consider raising an issue with the GCA on behalf of your members?**

The UFU would raise issues on behalf of members, however there are factors that need to be taken into consideration.

Due to the fragmented nature of agriculture, not all UFU members are directly supplying UK retailers. However, there are several members the Code is relevant for, typically within the horticultural and poultry sectors.

Where these concerns arise, the UFU encourages the member to contact either the relevant retailer Code Compliance Officer (CCO) or the GCA to seek advice and resolve the issue at the earliest stage possible. However, members are often fearful of raising issues with the CCO due to repercussions their business may face, this fear has been heightened in recent months as a result of unprecedented levels of inflation putting additional pressure of supply chain relationships.

Supporting members to fully understand the Code, how their business can use it during commercial negotiations and how to approach potential breaches in a manner which does not jeopardise the commercial relationship.

#### **5. What do you believe has been the impact of the GCA on the groceries market?**

Generally, the GCA has had a positive impact on commercial relations in the groceries market. Retailers are conscious of the need to avoid activities that breach the code and are more willing to listen to supplier concerns. However, progress is not entirely uniform amongst all retailers. This is reflected in the results of the annual survey undertaken by the GCA. This shows that the need to comply with the Code has yet to fully permeated the corporate culture of all the retailers falling under the remit of the GCA.

In other sectors, farmers are having to make planting decisions, weighing up the risk of high input prices, particularly fertiliser, against an uncertain reward. This could disincentivise areas planted, reducing grain production and supply, resulting in higher prices and a food price inflationary effect in the short and medium term.

The UFU would like to emphasise to the GCA that primary producers cannot wait for the lengthy legislation to come into place and the business decisions that primary producers make is intrinsically linked to the decisions of retailers. The GCA has the capability to extend the protections against Unfair Trading Practises (UTPs) to such primary producers particularly when we consider the UK's food security position.

The industry needs immediate action to rebalance the supply chain and hold retailer accountable to unfair trading practises or to ensure cost price increases (CPIs) reach the primary producer.

Whilst it is difficult to provide quantitative analysis, the UFU believe the GCA has had a positive influence on the groceries market benefiting both ends to the supply chain. Our members report both the action and existence of the GCA helps moderate excessive buying power and inappropriate buyer behaviour.

Although the grocery sector has improved significantly as a result of the adjudicator, there is still a prominent culture of fear amongst members and suppliers preventing them from reporting issues. The fear is based on the potential for suppliers to be delisted, volume reduced or damaged reputation. As well as short-term repercussions such as delisting's or changes to volumes, members are fearful that reporting may cause relationships to breakdown in the long-term, such as during their next tender or price negotiation.

**6. How effective do you consider the GCA has been in exercising its powers:**

- a. in providing arbitration?**
- b. in conducting investigations and undertaking enforcement activity?**
- c. in providing advice, guidance and recommendations?**

UFU does not have first-hand evidence from suppliers to answer this question.

**7. Do you think the GCA has been effective in enforcing the Code?**

- a) Yes
- b) No

**Please give your reasons This question will allow us to gauge the broad sense of effectiveness in wide terms. Detailed analysis of effectiveness will be judged by responses to all questions**

UFU does not have first-hand evidence from suppliers to answer this question.

**8. Do you think there are advantages of transferring the GCA functions to the Competition and Markets Authority (“CMA”) to increase efficiency, effectiveness and economy in exercise of public functions?**

The consultation document doesn't provide any specific detailed information on the potential advantages that could follow from a such a transfer. Merger with a larger enforcement body that has greater resources could be presumed to provide opportunities and commitment of greater resources to GCA functions when required.

The UFU does not believe that there are advantages of transferring the GCA functions to the CMA, nor would it increase the efficiency, effectiveness, and economy of public functions while the GCA is levy paid and does not put additional burden on the consumer or supplier in light of cost-of-living crisis.

**9. Do you think there are disadvantages of transferring the GCA functions to the CMA and do you have thoughts on how these might be addressed?**

Yes. Transferring the GCA functions to the CMA will have serious disadvantages to the efficiencies of the GCA and the effectiveness of enforcing GSCOP. Its transfer would negatively impact the food supply and ultimately effect consumer choice. The GCA ensures confidentiality, trust and increased transparency, which would be lost if its functions were transferred to the CMA.

The effectiveness of the GCA role is credit to the strong relationships built with retailers, suppliers and industry stakeholders. Regular meetings with suppliers and trade bodies are also key to gain a detailed understanding of how retailers are treating suppliers and to raise awareness of the GCA. The UFU questions if the CMA would have the resources and remit to cover the current role and maintain this level of vital and prompt engagement with the retailers to ensure successful enforcement of the code and proactively manage potential code breaches before escalation.

The functions of the GCA's role relies heavily on feedback from suppliers regarding retail trading behaviours. One of the key GCA objectives is to raise awareness and to promote the work of the adjudicator. The UFU has concerns if the GCA functions are transferred to the CMA it would create confusion, a loss of focus and reduce the visibility of the adjudicator resulting in suppliers being reluctant or confused where to report breaches of the code and unfair practices.

The main point of concern would be a loss of focus. Undertaking the functions of the GCA could become a lower priority depending on the CMA's commitments in other areas. This would weaken the

enforcement of the Code, hence the requirement for a care in how the GCA was embedded within the CMA. The transfer of GCA functions must not result in dilution of effectiveness.

**10. Do you think there would be advantages of transferring to another public body. If so, could you explain which one and why and whether there are any disadvantages?**

It is not apparent that there is another public body that would have the same degree of knowledge of competition law and commercial practices as the CMA

The UFU does not believe it would be advantageous to transfer the remit of the GCA into a different public body as covered in previous questions.

**11. Do you think it is still necessary to have an Adjudicator to enforce the Code?**

The UFU would be strongly opposed to the abolition of the GCA. The GCA Annual Survey has recorded an overall improvement in retailer behaviour with their suppliers since the inception of the GCA. Inflationary pressures have now caused a deterioration in retailer/supplier relations.

This is confirmed by a statement from Mark White, the Groceries Code Adjudicator, who is quoted as saying on the GCA page of the Gov.UK website:

*“Inflation has affected the entire groceries sector as witnessed by the sheer scale of requests from suppliers to increase prices.*

*“I am concerned that the pressure has impaired relationships and created wider problems. My priority is to work with all the retailers to ensure they treat their suppliers fairly as they navigate the cost price process during this difficult time.*

The adjudicator also provides confidence for primary producers to continue producing and invest in their business which will in the long term continue the growth of both the farming industry and the food retail sector. To remove the adjudicator at this time of low confidence would have a negative ripple effect in the supply chain.

The UFU believes that the GCA will play a pivotal role in the future, for example the roll out of mandatory contracts across all sectors, and the influence of Scope 3 emissions accounting on the supply

chain. It is vital that the adjudicator remains in place to ensure that the retailers continue to work in a fair manner that does not push the burden on to the smaller businesses in the supply chain.

Our members have significant concerns regarding the changing landscape of the retail sector and the impact it is having on relationships with suppliers. As retailers are under increasing pressure to remain competitive UFU members have reportedly seen a shift in retail behaviour as they prioritise ways to maximise on value. Therefore, it is more important than ever to have an adjudicator to enforce the code and ensure retailers are not treating their suppliers unfairly or transferring excessive risk and unexpected costs to the primary producer.

As previously mentioned, UK farmers and growers need confidence to invest in their businesses for the long-term. Long term supply agreements and good relationships with their suppliers will encourage farmers to invest in future production. The removal of the adjudicator at a time where producer confidence is already low will have detrimental impacts on the availability and quality of UK domestic production.