



Australian Government



Australian
**Small Business and
Family Enterprise**
Ombudsman

29 November 2018

Food and Grocery Code of Conduct Review

The Treasury
Langton Crescent
PARKES ACT 2600

By email: FGC@Treasury.gov.au

Dear Sir/Madam

Treasury Consultation-Review of Food and Grocery Code of Conduct Final Report

In our previous submissions to the review we focussed on compliance enforcement and dispute resolution. These remain key areas of concern with a voluntary Food and Grocery Code (the Code). We reiterate our view that the Code should be mandatory for retailers and wholesalers.

Coupled with making the Code mandatory is the need to make enforcement penalties meaningful. Without meaningful penalties the abuse of bargaining power by the signatories will remain unchecked. We agree with the review that such penalties do not compensate an aggrieved supplier and should be seen as a means to change the culture and behaviour of signatories to the Code.

Currently many suppliers do not complain due to fear of retribution. To provide dispute resolution for suppliers we support recommendation 5 - to establish an independent Code Arbiter within each signatory. We agree that the key characteristics of the Independent Arbiter model at Coles provide a starting model. Critically, the arbiter should not be from the legal team and must be outside the supplier relationship. In addition we recommend that the existence and purpose of the arbiter be widely promoted to suppliers and have fixed, short, timeframes to resolve disputes.

A further recommendation is to include best practice for payments due to small business suppliers in the Code. We are currently undertaking a review of payment times and practices with an online survey available to small businesses to name large corporations that fail to offer, or meet, fair and reasonable payment terms. Retailers in the Food and Grocery sector have been named multiple times by small businesses as failing to pay to agreed terms. Often paying late placing additional stress on the cash flow of small business and family enterprises.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Jill Lawrence on [REDACTED] or at [REDACTED]

Yours sincerely

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Australian Small Business and Family Enterprise Ombudsman

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