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Dear John,

GROCERIES CODE ADJUDICATOR

Following our recent debate at the second reading on the Enterprise Bill, I said that I would write to you on how the Groceries Code Adjudicator (GCA) is getting on with the concept of anonymity.

It is first worth reminding ourselves of the background to the creation of the GCA. This followed a market reference by the (then) Office of Fair Trading to the (then) Competition Commission in 2006, under the Enterprise Act 2002, for investigation and report into the supply of groceries by retailers in the UK. The result of that review was the introduction of the Groceries Supply Code of Practice (the Code) in February 2010, to address the adverse effects on competition from the relationship between the 10 largest retailers and their direct suppliers. The GCA Act 2013 established the GCA to oversee the Code. Therefore, the Code and the GCA exist as a remedy to a competition issue in a particular sector (groceries) and, as such, only the Competition and Markets Authority (as the UK's current competition authority) can make changes to the Code.

As you pointed out, the GCA has had a statutory duty in respect of confidentiality since its establishment by the GCA Act. Section 18 of that Act prevents the GCA from making unauthorised disclosures of information which identifies a party to an arbitration or a person who has complained or may have complained about a potential breach of the Code or may, in the GCA's opinion, result in their identity being deduced.

My officials have spoken to the GCA about this. Naturally, the GCA is well aware of all her statutory obligations and reflects these in her chosen way of working. The GCA has implemented a three-stage approach, which builds the confidentiality provision into the rest of her statutory functions. This approach can be summarised as follows.

At the first stage, the GCA will consider whether an issue brought to her attention appears to be more than an isolated occurrence. If so, she will raise it with the relevant retailers' Code Compliance Officers (CCOs) for their own action. The GCA will only raise isolated occurrences with CCOs where there has been a significant impact and even then, only if confidentiality can be maintained.

At the second stage, the GCA will raise an issue with the relevant CCO or CCOs if she considers there is evidence of a potential widespread Code breach, while protecting the confidentiality of the supplier(s) experiencing the issue. Depending on what is found by the CCO or CCOs, the GCA may issue advice clarifying or interpreting the relevant provisions of the Code for the relevant retailer or retailers and others to follow. Where a retailer accepts a Code breach has taken place the GCA may publish a case study on the GCA website.

At the third stage, if the GCA continues to hear of suppliers experiencing the same widespread issue then she may decide to publish formal guidance and/or launch an investigation.

As I said, the GCA considers that this approach allows her to protect the confidentiality of suppliers, along with fulfilling her other statutory functions.

As a final point, I should also mention that the GCA will be reviewed next year as required under the GCA Act. This review will assess the performance of the GCA in exercising her powers, as set out in the GCA Act, and how effectively she has enforced the Code.

I am placing a copy of this letter in the library of the House of Lords.

A handwritten signature in black ink that reads "Lucy Neville-Rolfe". The signature is written in a cursive, flowing style.

BARONESS NEVILLE-ROLFE DBE CMG