

Statutory Review of the Groceries Code Adjudicator: Terms of Reference

Introduction

This document sets out the terms of reference for the Government's second statutory review of the Groceries Code Adjudicator ("the GCA Review")¹. Its purpose is to explain the issues that will be examined by the GCA Review.

The GCA Review covers the statutory requirements which the Government is obliged to fulfil under the Groceries Code Adjudicator Act 2013 ("the Act")².

The Statutory Review

The Act requires the Government to look at the performance of the Groceries Code Adjudicator ("the GCA") and at specific Order-making powers contained within the Act. These obligations will be met in the first two terms of reference.

Term of Reference 1

To consider the GCA's performance from 1 April 2016 to 31 March 2019.

This will in particular:

- consider how the GCA's powers have been exercised; and
- assess how effective the GCA has been in enforcing the Groceries Code ("the Code").

Term of Reference 2

To consider whether it would be desirable for the Secretary of State to exercise his Order-making powers contained in Section 9(6) and Section 15(11) of the Act.

This will consider whether:

¹ Section 15 of the Groceries Code Adjudicator Act 2013 (<https://www.legislation.gov.uk/ukpga/2013/19/contents>) requires the Secretary of State to review the Groceries Code Adjudicator's performance every 3 years. The first review period covered the period from 25 June 2013 (when the GCA was established) to 31 March 2016. The second review will cover the period from 1 April 2016 to 31 March 2019

² See Section 15 of the Act - <https://www.legislation.gov.uk/ukpga/2013/19/contents>

- to amend or replace the Groceries Code Adjudicator (Permitted Maximum Financial Penalty) Order 2015;
- to make an Order setting out the information that the GCA may consider when deciding whether to investigate.

Consultation process

There will be a consultation paper for the GCA review, and the following will be consulted:

- (a) the GCA;
- (b) the Competition and Markets Authority (CMA);
- (c) the retailers mentioned in Article 4(1)(a) and (b) of the Groceries Supply Order and in the Notices of Designation issued by the CMA³;
- (d) one or more persons representing the interests of suppliers;
- (e) one or more persons representing the interests of consumers; and
- (f) any other person (we have not identified any specific person or persons here and welcome contributions from any interested person).

This consultation is available from:

<https://www.gov.uk/government/consultations/groceries-code-adjudicator-statutory-review-2016-to-2019>

If you need a version of this document in a more accessible format, please email GCAREview@beis.gov.uk. Please tell us what format you need. It will help us if you say what assistive technology you use.

³ At the date of this document these retailers are Aldi, ASDA, B&M, Co-op, Iceland, Lidl, Marks and Spencer, Morrisons, Ocado, Sainsburys, Tesco, Waitrose. Ocado and B&M were added to the list by way of Notices of Designation issued by the CMA in November 2018