

Fourth Statutory Review of the Groceries Code Adjudicator Terms of Reference

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

Section 15 of the Groceries Code Adjudicator Act 2013 requires the Secretary of State to review the Groceries Code Adjudicator's performance every 3 years, with the fourth review period covering the period from 1 April 2022 to 31 March 2025.

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

The Statutory Review

The Act requires the government to look at the GCA's performance and at specific Order-making powers contained within the Act. The terms of reference will set out how the obligations in relation to the statutory review will be met.

Term of Reference 1

Consider the GCA's performance from 1 April 2022 to 31 March 2025.

This will in particular:

- Consider how much the GCA's powers have been exercised and in what circumstances; and
- Assess how effective the GCA has been in enforcing the Groceries Code ("the Code").

Term of Reference 2

Consider whether it would be desirable for the Secretary of State to exercise his Order-making powers contained in Section 9(6)¹ and Section 15(11) of the Act.

This will consider whether:

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

Consultation process

The following will be consulted:

- (a) The GCA;
- (b) The Competition and Markets Authority;

¹ Note section 15 does not require the review to consider the powers in section 9(6) of the Act but section 15(6) provides that the review may consider this.

- (c) The retailers mentioned in Article 4(1)(a) and (b) of the Groceries Supply Order²;
- (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 (see explanatory notes below).

Next steps

As soon as practicable after the consultation period, the Secretary of State will:

- Publish a report of the findings of the GCA review; and
- Lay a copy of the report before Parliament.

Explanatory notes

In preparing these terms of reference we have fulfilled the requirements of the Act.

Section 15(8) of the Act sets out the persons that must be consulted as part of the review. Paragraph (g) of section 15(8) says that includes any other person the Secretary of State thinks appropriate. The Secretary of State has not identified any other specific person or persons he wishes to consult but welcomes contributions from any interested person.

² At the date of this document these retailers are: Asda Stores Ltd; Co-operative Group Ltd; Marks & Spencer plc; Wm Morrison Supermarkets Ltd; J Sainsbury plc; Tesco plc; Waitrose Ltd; Aldi Stores Ltd; Iceland Foods Ltd; Lidl GB Ltd; B&M European Value Retail S.A.; TJ Morris Ltd, trading as Home Bargains; Ocado Retail Ltd; and Amazon.com, Inc.