



Press Release

15th October 2011

GROCERY ADJUDICATOR MUST BE FREE TO ACT ON EVIDENCE

The BIS Committee's today announced the Government's response to its "Time to bring on the referee" report. While the Government accepts some of the Committee's recommendations, it has not accepted two crucial ones – the adjudicator's ability to investigate breaches of the grocery code on evidence from a trade association and to levy fines, casting doubt on the adjudicator's effectiveness.

The BIS Committee fully recognised the necessity of a Grocery Adjudicator and that clear evidence from a number of sources, including trade associations, would be necessary to investigate breaches of the Groceries Supply Code of Practice (GSCOP). Government, originally seeking to restrict the evidence on which the Adjudicator can act, remains unconvinced.

Commenting on the Government's response, John Noble, Director of the British Brands Group, said:

"The answer is straightforward. If the adjudicator has reliable evidence that the Code has been breached, it should be free to act. To have the evidence but not to be able to use it because of the identity of the messenger is obtuse and threatens the effectiveness of the measure."

The British Brands Group welcomes Government's intention to look at this again but echoes the BIS Committee's call for this not to delay legislation. The Competition Commission recommended an Adjudicator in 2008 but it is unlikely to be operational until 2013 at the earliest as it is.

Government's decision not to accept the Committee's call for immediate powers to penalise serious breaches of the Code flies in the face of the specific recommendation of the Competition Commission. It calls into question the seriousness with which Government considers persistent retailer practices that harm consumers through the mistreatment of suppliers. John Noble said:

"After more than a decade of problems in the grocery market, the Adjudicator must be put in place quickly and given the tools necessary to do its job."

ENDS

NOTES TO EDITORS

1. The Competition Commission in 2008 found that large grocery retailers transferred excessive risks and unexpected costs onto their suppliers, damaging consumers. Its remedy was the Groceries Supply Code of Practice (GSCOP) monitored and enforced by a Groceries Code Adjudicator (GCA). While the GSCOP is now in force, legislation is required to appoint an Adjudicator as it will be funded by large retailers.
2. Currently Government policy allows only evidence from a named supplier or information in the public domain to initiate an investigation into retailer practices suspected of breaching the GSCOP. This ignores the “climate of fear” amongst suppliers in the grocery market which prevents them coming forward with evidence and which prevents their trade associations putting information into the public domain.
3. The Competition Commission gave large grocery retailers the opportunity to set up an Adjudicator voluntarily. This would have been quick and cheap. The retailers declined to do so. Consequently the Competition Commission explicitly recommended that Government legislate and for the Adjudicator to have the power to levy financial penalties.

An opportunity to set up an Adjudicator at no cost to the public purse was missed and years of delay is the result. Furthermore, the absence of a financial penalty reduces the pressure on retailers to comply with the GSCOP. It also casts doubt on the Competition Commission’s ability to act independently of Government, when its clear recommendation is ignored.

4. The British Brands Group was founded in 1994 as a non-profit-making membership organisation. It speaks on behalf of brand manufacturers and seeks to deepen understanding of how brands benefit consumers, society and the economy through the provision of choice, value for money and innovation.

It represents its members collectively when commercial and regulatory issues threaten the ability of brands to deliver value and to be a positive force in society. It also provides the prime forum for its members on brand-related issues.

The British Brands Group is part of a global network of similar brand associations, and is the UK representative of AIM, the European Brands Association, based in Brussels.

For more please visit the British Brands Group website: www.britishbrandsgroup.org.uk

For any further information, please contact:

John Noble 01730 821212 mobile: 07711 202292 jn@britishbrandsgroup.org.uk