



Retailers' GSCOP¹ reports 2012-13

A review of retailers' summaries of their reports to the OFT

The UK's top ten grocery retailers are required to publish summaries of the annual reports on GSCOP compliance that they make to the Office of Fair Trading.

For the third year the Group has reviewed these summaries and notes:

- some retailers do not disclose key information while others do;
- there is reluctance on behalf of some to quantify alleged and actual breaches;
- while retailers who have had disputes indicate whether or not these have been resolved, they do not indicate whether breaches have been found;
- in contrast, most reports give helpful, and in some cases quite detailed, information on the steps taken to ensure compliance.

It is unknown whether there are more or fewer disputes compared to last year as last year the number of disputes was not fully disclosed. However the eleven reported this year is very small in the context of all retailer / supplier transactions. This may indicate high levels of GSCOP compliance or a continuation of the 'climate of fear' amongst suppliers identified by the Competition Commission.

Public reporting by retailers of their GSCOP compliance remains an area for potential guidance, to ensure the highest level of consistency and transparency within the terms of the regulation.

1 Background

This is the third report from the Group on retailers' publicly stated compliance with the Groceries Supply Code of Practice (GSCOP). The others are available on our [website](#).

The ten largest grocery retailers are required under the GSCOP Order² to publish an annual summary of their compliance, in their annual company report if they have one or "clearly and prominently" on their website if not. The summary must contain an overview of instances where suppliers have alleged breaches, steps taken to ensure compliance (including training) and disputes with suppliers, along with their outcome.

2 Reporting

All retailers have reported their summaries of their compliance reports publicly either in their annual reports or on their website. Aldi has used both.

¹ GSCOP: Groceries Supply Code of Practice.

² [The Groceries \(Supply Chain Practices\) Market Investigation Order 2009](#), paragraph 10(5).

While all the reports are relatively easy to find, Iceland Foods is the only company not to make the information directly available on its website. It is however available by paying a fee to Companies House for its Financial Statement.

A full record of each of the ten retailers' public statements are given at the end of this report while an overview is given below:

	Alleged breaches	Actual breaches	Disputes	Dispute outcome	Training
Aldi	0	0	0		✓
Asda	"Small number"	ND	0		✓
Co-op	"A modest number"	2	0		✓
Iceland	ND	0	0		✓
Lidl	ND	ND	0		✓
M&S	2	ND	1	Breach denied ³	✓
Morrisons	Unspecified number	ND	10 ⁴	8 withdrawn or resolved 2 unresolved	✓
J Sainsbury	"Small number"	ND	1	Resolved	✓
Tesco	Unspecified number	ND	1	Resolved	✓
Waitrose	ND	ND	0		✓
	ND = Not disclosed				

3 Alleged and actual breaches

As we have observed in the past, retailers are required to report to the OFT on both alleged and actual breaches of the Code and the steps taken to rectify them. It is unclear the extent to which their summary reports must provide this information.

There is no consistency in how breaches and alleged breaches are reported, while there are no reports on the steps taken to rectify them. Iceland, Lidl and Waitrose do not report alleged or actual breaches at all while only three comment on actual breaches (Aldi, Co-op, Iceland), two of these having none to report.

Of those who report on alleged breaches, Aldi and M&S give specific quantities (including none) while others use vague language such as "a small number". Morrisons and Tesco indicate there have been alleged breaches but do not quantify them.

Of the six retailers who declare alleged breaches, five do not then indicate how many of these turned out to be actual breaches.

4 Steps taken to ensure compliance

All retailers give information on the steps they have taken to ensure compliance, with many differentiating between training for new staff and refresher training for existing staff. A number refer to reviews of Terms & Conditions, their Code Compliance Officer, internal

³ Supplier has not initiated arbitration proceedings.

⁴ Since publishing the report, Morrisons has clarified that this number relates to 'Alleged breaches' and not Disputes. There were no Disputes and two incidents were from the previous year.

audits and notifying new suppliers of the GSCOP.

5 **Disputes with suppliers and their outcome**

Four retailers report disputes – M&S, Morrisons, J Sainsbury and Tesco – and the outcome of those disputes, as they are required to do. The reports however provide limited further insight.

M&S reported one dispute but denied a breach and the supplier has not initiated arbitration. Is that dispute resolved or unresolved? Morrisons report that eight of their ten disputes have been withdrawn or resolved but gives no quantification.

No retailer who reports a resolved dispute clarifies whether or not a breach was found.

6 **Observations and recommendations**

For the third year running there continues to be no standard approach to how retailers summarise their OFT reports. It would be helpful were each retailer to quantify in its report: the number of alleged breaches with suppliers, the number of actual breaches, the number of disputes raised and the outcome of those disputes.

While it would be preferable for retailers to indicate, in relation to disputes, whether or not a breach was found (as opposed to just whether or not it was resolved), it is understood that a requirement to do so may constrain the resolution of disputes. This would be counter-productive. This however is an area where the Adjudicator may be able to bring deeper understanding in her annual reports, perhaps on an aggregated basis across all designated retailers.

We continue to note that those who use their website to report must do so “clearly and prominently” while those who use their annual company report need not, which is an anomaly. While the company reports of most are freely available online on their websites, Iceland’s is only available for a fee via Companies House.

We continue to advocate the importance of independent scrutiny of the GSCOP. These published summary reports are currently the only means of doing so. This therefore remains an important area for potential guidance, presumably by the Office of Fair Trading (or Competition and Markets Authority after 1st April) to ensure the highest level of consistency, comparability and transparency within the terms of the regulation.

J A Noble

18th February 2014

GSCOP

Retailers' published summaries of their reports to the OFT

Retailer	Document	Statement
<p>Aldi (Company no. 02321869)</p>	<p>Corporate website</p>	<p>The Groceries Supply Code of Practice (GSCOP) came into force on 4th February 2010.</p> <p>It applies to all retailers with grocery sales over £1 billion and requires them to submit an annual report to the Office of Fair Trading and the Groceries Code Adjudicator, once they have been established.</p> <p>Our annual report was submitted in April 2013 covering the period 1st January 2012 to the 31st December 2012.</p> <p>During this time no disputes, breaches or alleged breaches were raised with us by our suppliers.</p> <p>During the year new suppliers were provided with information on GSCOP as required by the Order.</p> <p>Annual refresher training was carried out for all employees with GSCOP responsibilities and any new starters with buying responsibilities were trained on the Code and the Order in accordance with the deadlines set out by the Order.</p> <p>[This report is replicated in the company's Financial Statements 2012 filed at Companies House.]</p>
<p>Asda</p>	<p>Your Asda website</p>	<p>On 4 February 2010, a new regulation called The Groceries (Supply Chain Practices) Market Investigation Order 2009 (let's call it the "Order") came into force.</p> <p>It implemented something called the Groceries Supply Code of Practice (let's call that the "Code") which applies to certain grocery retailers, including us – Asda – in our dealings with suppliers.</p> <p>As part of our compliance with this Order, we're required to submit an annual compliance report to the Office of Fair Trading ("OFT") to detail our compliance with the Code, any alleged breaches of Code and any disputes with suppliers. We're also required to post this notice on our website.</p> <p>We're pleased to say we delivered our second report, covering the period from 1 January 2012 to 31 December 2012, to the OFT on 30 April 2013.</p> <p>During the reporting period, we took several steps to achieve compliance.</p> <p>These included sending out letters to new grocery suppliers explaining their rights under GSCOP and providing comprehensive training on the Code to all members of our buying team. That's involved training for all new members of the buying team and annual refresher training via computer based learning.</p>

		<p>We received a small number of alleged breaches of the Code during the reporting period. All of these have been resolved or withdrawn. We're pleased to say that because, in our view, of the effective way that we work with suppliers to deal with their concerns, there have been no instances of a supplier escalating their concern to Asda's Code Compliance Officer directly to raise a dispute (as defined in Article 11(2) and (3) of the Order). Nor have there been any instances of disputes referred to arbitration (as set out in Article 11 of the Order).</p> <p>Compliance with the Order and Code is really important to Asda, and we will continue to take steps to achieve compliance to the fullest degree.</p> <p>If you would like to find out more about the Groceries Supply Code of Practice, you can do so at www.competition-commission.org.uk.</p>
The Co-operative	Annual Report & Accounts 2012	<p>The Code was introduced on 4 February 2010 following a Competition Commission investigation of the market for the supply of groceries in the UK. The Code applies to all grocery retailers with a turnover greater than £1bn and aims to address a number of findings of the investigation by placing those retailers under specific obligations regarding their supplier relationships, including a requirement to deliver an annual compliance report (of which this is a summary) to the Office of Fair Trading.</p> <p>We expect to work purposefully and collaboratively with our suppliers in the long term interests of our customers and members, and believe this approach has served us well in the past and will continue to do so in the future. Naturally, we take our responsibilities under the Code seriously.</p> <p>Consequently, a significant investment has continued to be made in robust compliance processes and systems (both within our Food business and, to the extent it retails grocery items, our Pharmacy operation). This includes work commissioned by our appointed Code Compliance Officer, a rolling programme of internal audits to test compliance, a comprehensive training programme for all employees involved in dealings with our suppliers, an online supplier portal, and the provision of regular reports to the Group's Audit and Risk Committee to ensure that the Committee retains effective oversight of Code compliance generally.</p> <p>A modest number of alleged breaches of the Code has been asserted by suppliers, but all but two of these have been found, on examination, not to engage the provisions of the Code in fact. Of the two which did mature into formal Disputes under the Code, we are pleased to be able to report that the Group was able to resolve these with the suppliers in question without recourse to the prescribed arbitration procedures.</p>
Iceland (Company no. 01107406)	<p>Iceland Food Ltd Financial Statements to 29 March 2013.</p> <p>Not free online. Only obtainable by purchasing a copy from Companies House.</p>	<p>An annual compliance report as required by the Groceries (Supply Chain Practices) Market Investigation Order 2009 ("Order") for the financial year 2012/13 has been submitted to and approved by Iceland's Audit Committee.</p> <p>The report confirmed that during this period there have not been any breaches of the Groceries Supply Code of Practice ("GSCOP") or the Order and there have been no formal complaints.</p> <p>A number of measures have been taken during the year to ensure full compliance with GSCOP. These include ensuring that all new suppliers</p>

		<p>receive Iceland's standard GSCOP terms and conditions prior to commencing supply. All members of the buying team have been issued with a copy of GSCOP and receive training annually. All new members of the buying team receive a copy of GSCOP and training as part of their induction.</p> <p>A central electronic database continues to be used to ensure all relevant documents are stored and available to the supplier whenever required. Internal audits are carried out to assess the effectiveness of GSCOP training and to ensure ongoing compliance with GSCOP.</p> <p>No notice has been received of any formal disputes regarding the terms of the supply agreements or compliance with GSCOP.</p>
Lidl	Lidl.co.uk (About us) Tab: Legal	<p>Purpose: This report details the actions taken by Lidl UK GmbH to ensure ongoing compliance with the Groceries Supply Code of Practice, which came into force on 4th February 2010.</p> <p>This document also gives account, for the Company's last full financial year (FY 12/13), of any Disputes that were raised by Suppliers, the level at which they were raised and resolved.</p> <p>Actions undertaken prior to commencement of the GSCOP: In conjunction with external solicitors:</p> <ul style="list-style-type: none"> All existing Terms & Conditions checked for compliance with the Code. Reference to the GSCOP made in relation to all existing contracts. <p>In house compliance measures:</p> <ul style="list-style-type: none"> The Head Office Compliance Director has been appointed as Code Compliance Officer (CCO) in line with Article 9(1) of the Groceries (Supply Chain Practices) Market Investigation Order 2009. All relevant Suppliers have been informed of the escalation stage 1 (Buying Director) and stage 2 and 3 (Code Compliance Officer) contact details. All Buying staff have received initial training on the Code. <p>Review of FY 2012-2013: In house compliance measures:</p> <ul style="list-style-type: none"> The annual refresher training for all Buying staff has been carried out by the Code Compliance Officer on 27.02.13. Additionally, newly appointed Buyers are trained on GSCOP compliance requirements by their line managers in the Buying Department, and automatically receive GSCOP-relevant documentation from the Personnel Department upon induction in their new position. <p>Disputes: No Disputes have been raised to the CCO.</p>

M&S	Financial report and annual statements 2013	<p>The Groceries (Supply Chain Practices) Market Investigation Order 2009 (“Order”) and The Groceries Supply Code of Practice (“GSCOP”) impose obligations on M&S relating to relationships with its suppliers of groceries. M&S operates systems and controls to ensure compliance with the Order and GSCOP including the following:</p> <ul style="list-style-type: none"> - The terms and conditions which govern the trading relationship between M&S and those of its suppliers that supply groceries to M&S incorporate GSCOP. - New suppliers are issued with information as required by the Order. - M&S has a Code Compliance Officer as required under the Order, supported by our in-house legal department. - Employee training on GSCOP is provided, including annual refresher programmes and new starter training. <p>Under the Order and GSCOP, M&S is required to submit an annual report detailing its compliance with GSCOP to the Audit Committee for approval and to the Office of Fair Trading. M&S submitted its report to the Audit Committee on 10 May 2013 covering the period from 1 April 2012 to 30 March 2013. In accordance with the Order, a summary of that compliance report is set out below:</p> <p>M&S believes that it has complied in full with GSCOP and the Order during the relevant period. Only two suppliers alleged breaches of the Order/GSCOP. One of the allegations led to a dispute, which is detailed below, and the other was withdrawn by the supplier and the issue resolved to the satisfaction of both parties.</p> <p>One formal dispute has arisen under the Order/GSCOP between M&S and a grocery supplier in the reporting period. M&S completely denies any breach and arbitration proceedings have not yet been initiated by the supplier.</p>
Morrisons plc	Annual Report and Financial Statements 2013	<p>The Groceries Supply Code of Practice (‘GSCOP’) came into effect on 4 February 2010 and applies to all grocery retailers with an annual turnover in excess of £1bn.</p> <p>The Group undertook a number of measures to ensure compliance before commencement, including appointing a Code Compliance Officer (CCO), amending its standard Terms & Conditions of Purchase to incorporate the GSCOP, and undertaking a full training regime for its buyers and associated supporting colleagues. Over the last year the Group has built on its initial work by undertaking a second full re-training programme for all relevant colleagues. The Group has also had all of its supporting processes reviewed during the year by the Internal Audit team.</p> <p>Alleged breaches were dealt with in accordance with the regulations and escalated internally up to and including the CCO where required. These matters are reported to the Corporate Compliance and Responsibility Committee.</p>

		<p>Since the GSCOP came into effect the Group has successfully worked with suppliers to resolve disputes that have arisen with reference to its provisions. Details of such disputes have been reported to the Office of Fair Trading (OFT) periodically on request as part of the OFT's monitoring. Ten matters have been reported by Morrisons to the OFT (two carried over from the previous financial year). Of those, eight were withdrawn by suppliers or resolved and two reported during the period were unresolved at the year end. No matters reported during the financial year progressed to arbitration during the period.</p> <p>As initially intended, the Government has appointed an Adjudicator through new legislation to oversee the operation of the GSCOP. The Group looks forward to working with the Adjudicator to ensure that it adheres to best practice and remains in line with new guidance.</p>
J Sainsbury plc	Annual report and financial statements 2013	<p>The Grocery Supply Code of Practice 2010 ('GSCOP') requires each grocery retailer to which it applies to appoint a Code Compliance Officer whose duties include hearing disputes between suppliers and the relevant retailer. Sainsbury's has appointed the Director of Internal Audit as its Code Compliance Officer.</p> <p>A further GSCOP requirement is that each grocery retailer to which it applies must deliver an annual compliance report to the Office of Fair Trading which has been approved by the chair of the Audit Committee. A summary of the compliance report must be included in our Annual Report and Financial Statements.</p> <p>Summary Annual Compliance Report</p> <p>Sainsbury's continues to invest significant time and resource in providing comprehensive training to all relevant colleagues as required under GSCOP. This training is reinforced by online knowledge testing and further supported by training and reference materials on our intranet. Sainsbury's has also dedicated internal legal resource to provide all relevant colleagues with day-to-day advice and guidance.</p> <p>A small number of alleged breaches of GSCOP have been received in the reporting period, all of which either have been or are in the process of being resolved to the supplier's satisfaction within the Trading Division using our standard internal escalation procedure. The resolution of one of these alleged breaches was facilitated by the Code Compliance Officer.</p>
Tesco plc	Annual report and Financial Statements 2013	<p>The Code places obligations on grocery retailers with a turnover greater than £1 billion to maintain a Code compliance programme, which includes training staff and providing information to the Office of Fair Trading. In addition, the Code sets out a number of provisions which relate to different aspects of the relationship between a retailer and supplier. We are committed to treating our suppliers fairly and work in collaboration with them wherever possible. It is in our nature to treat compliance with the Code very seriously.</p> <p>We have in place a Code Compliance Officer ('CCO') supported by a compliance team including a dedicated Code auditor. We have an audit plan and our approach enables us to identify any gaps in our processes so they can be quickly fixed.</p>

		<p>We also have in place an ongoing compliance training programme for our buying teams, and a comprehensive training course is provided for relevant new starters. We identified some non-compliance with the Code this year relating to the training of some new starters within the period mandated by the Code. We responded immediately by ensuring that all relevant personnel were trained by year end and further strengthened internal processes to ensure that all starters are trained within Code timelines. Annual refresher training is provided via a bespoke e-learning programme and our training processes in this regard were fully Code-compliant.</p> <p>All alleged breaches of the Code raised by suppliers this year have been dealt with internally. We have had one instance of a supplier initiating the Dispute Resolution Procedure set out in the Code. This dispute was resolved quickly.</p> <p>The CCO regularly reports to the Audit Committee, which considers that it retains effective oversight of our compliance with the Code.</p>
Waitrose	John Lewis Partnership Ltd Annual Report and Accounts 2013	<p>Waitrose continues to comply with the Order and GSCOP. Waitrose's Code Compliance Officer continues to ensure that its comprehensive Partner training, including annual refresher programmes and new starter training, together with its ongoing monitoring of supplier contracts ensures compliance.</p> <p>As part of Waitrose's ongoing compliance with the Order and GSCOP, Waitrose is required to submit a report detailing its compliance to the Company's Audit and Risk Committee for approval and to the Office of Fair Trading.</p> <p>The Audit and Risk Committee, which met on 16 April 2013, approved the Code Compliance Officer's report on Waitrose's compliance between 29 January 2012 and 26 January 2013. The Audit and Risk Committee was pleased to note that Waitrose has not been the subject of any supplier or supply chain disputes under the Order or GSCOP. In concluding that Waitrose was fully compliant with the Order and with GSCOP, the Audit and Risk Committee noted that Waitrose continues to invest significant resources in training, processes and documentation ensuring that its compliance programme would be consistent both with the requirements of the Order and GSCOP and reflect the Partnership's commitment to its overarching principle of fairness that has always governed its relationships with suppliers.</p>