

RECEIVED 31 MAR 2009

**BERR**

Department for Business  
Enterprise & Regulatory Reform

**The Rt Hon Lord Mandelson**

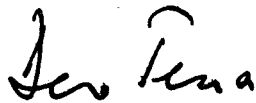
Secretary of State for Business  
Enterprise & Regulatory Reform

The Rt Hon Tessa Jowell MP  
House of Commons  
London  
SW1A 0AA

Our ref:PT/123452

Your ref:01090550

30 March 2009



Thank you for your letter of 13 February, enclosing correspondence from your constituent, about the Competition Commission's (CC's) investigation into the supply of groceries in the UK and I apologise for the delay.

The CC continue to seek to obtain voluntary undertakings from grocery retailers (under section 159 of the Enterprise Act) to establish an ombudsman who will monitor and enforce the new strengthened Groceries Supply Code of Practice (GSCOP).

The CC has the powers under the Enterprise Act 2002 to put in place the revised GSCOP without involvement from Government. The CC's proposals to create the new GSCOP, to replace the existing supermarkets code (SCOP), will be extended to include all grocery retailers with a UK turnover greater than £1 billion. The new strengthened Code, (whilst including much of the existing SCOP), will include amendments to:

- place the burden of proof on the retailer to demonstrate that where the supplier has complied with requests made that this was achieved voluntarily;
- introduce an overarching "fair dealing provision";
- prohibit retrospective changes to agreed terms of supply;

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- require retailers to make further improvements to their dealings with suppliers through the appointment of an in-house code compliance officer;
- keep better records of contracts with suppliers and automatic notification to suppliers of contractual terms; and
- incorporate a more powerful compensation mechanism into the new GSCOP.

The CC believes that the establishment of an independent ombudsman is key for the effective monitoring and enforcement of the GSCOP.

The proposed ombudsman's role will include:

- an overriding objective of monitoring and enforcing the GSCOP,
- gathering information and proactively investigating retailers' records,
- arbitrating in disputes between retailers and suppliers,
- publishing guidance on specific provisions of the GSCOP; and
- reporting to the Office of Fair Trading on a regular basis.

The CC is continuing to pursue implementation of all aspects of the GSCOP remedy. A public consultation on the Code of Practice began on 26 February and a similar consultation on the Ombudsman undertakings will commence during March.

In its report, the CC recommended to BERR that if the CC could not obtain satisfactory undertakings from the grocery retailers about the creation of an ombudsman within a reasonable period, that BERR should take steps to establish the ombudsman.

The CC also recommended that, if this were the case, BERR should take steps to give the ombudsman the power to levy significant monetary penalties on retailers for non-compliance with the GSCOP.

In the Government's response to the CC's report, which was published in July 2008, we said that we would await the outcome of the discussions between the CC and its grocery retailers about the establishment of the ombudsman.

Should no voluntary agreement be possible and the matter come back to Government, we would make any assessment based primarily on what would be in consumers' best interests.

A handwritten signature in black ink, appearing to read 'Peter Mandelson', written in a cursive style.

**PETER MANDELSON**