



HOUSE OF LORDS

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The Select Committee on the European Union

Agriculture, Fisheries, Environment and Energy (Sub-Committee D)

Inquiry on

THE GROCERIES CODE ADJUDICATOR AND FOOD WASTE PREVENTION

Evidence Session No. 1

Heard in Public

Questions 1 - 10

WEDNESDAY 11 MARCH 2015

11 am

Witness: Christine Tacon CBE

Members present

Baroness Scott of Needham Market (Chairman)
Lord Bowness
Baroness Byford
Lord Cameron of Dillington
Baroness Howarth of Breckland
Baroness Parminter
Lord Plumb
Lord Renton of Mount Harry
Lord Trees
Lord Williams of Elvel

Examination of Witness

Christine Tacon CBE, Groceries Code Adjudicator

Q1 The Chairman: Good morning, Miss Tacon. Thank you very much for coming to see us again. It is a little over a year since you came to talk to us before as part of our inquiry into food waste. You are very welcome. This is a formal evidence-taking session of the Committee. A full note will be taken and put on the public record in printed form and on the Parliament website. We will send you a copy of the transcript, and you can revise any minor errors. The session is on the record. It is being webcast live and will be accessible via the Parliament website in due course. You have been provided with copies of Members' interests and Members will declare any relevant interests the first time they speak.

With that out of the way, thank you very much again for coming. This is not really part of any formal inquiry that the sub-committee is undertaking. We were so interested in the evidence that you gave us before that we thought it would be a really good idea to have you back again to talk us through some of the things that have changed in the past year or so. Just to kick off, it is almost two years since the Groceries Code Adjudicator Act was passed. I would really like some impressions about how you are finding your role, how optimistic you are about the way the role is bedding down—just some introductory remarks along those lines.

Christine Tacon: You have probably gathered, if anybody has been following me in the press, that I am really enjoying the challenge. It is a great job and it was a very thorough piece of legislation that defined it, so that has made the job quite manageable. It has been difficult to get suppliers to come forward. I have been going out and speaking to suppliers in small groups—to be honest, that often seems to happen over meals—taking two to three

hours of people's time, with me talking about my role, building confidence and answering loads of questions on how I can protect their confidentiality. They will generally start talking and telling me what is going on and I tend to use those sessions to check that the top five issues that I have been working on are the right ones. I am not short of knowing what is going on with suppliers, but I am not getting many people coming to me with evidence.

My optimism, which you saw two years ago, has continued. Actually it is even more, because I am starting to get some feedback that it is making a difference, and that is really what I want to achieve. People's knowledge and understanding of the Groceries Supply Code of Practice is increasing, but I do not think that many suppliers have gone out of their way to understand the Code themselves, to get trained on it, to think about all the different ways in which it can be used. Up to now only one organisation has been doing any training, but I have now heard of a couple more, which is useful. Some people are doing in-house training with lawyers, but I think there is a lack of knowledge among suppliers as well.

Since I last spoke to you, we have had our commitment on forensic auditing, which you may well have read about in the press. The retailers had been going back six years looking for evidence that the supplier might owe them some money, and there has been a voluntary commitment with eight out of 10 of them to go back only to the current year plus two years as opposed to the current year plus six. We have put three case studies on our website where I came across something that felt like a breach of the code, raised it with the retailer's Code compliance officer, they agreed that it was a breach of the Code and I wrote it up as a case study and put it on the website. I had said all along to the retailers that the first time I came across a breach, I would work with them—this is my collaborative way of working—but if they did it again, that is when I would talk about investigating. So the case studies have helped to set some principles.

As you know, I have launched my first investigation, which is very much in its early stages. I cannot really talk much about it, but I can tell you what I am investigating. I feel that we are moving forward and making progress, but most of all I really enjoy hearing from suppliers that I am making a difference, that my very existence is helping. I have even had some big, global multinationals telling me, "We don't think there is anything in the Code that really applies to us". I will say, "Didn't the forensic auditing make any difference?", and they say, "Oh yes, that's huge. That has made a real difference". So sometimes I have to remind them what I have done. I rarely come across somebody who says that nothing has changed. Actually, when you see how much more competitive life has become over the past 18

months, the fact that people are saying it is getting better—you would have expected it to be going backwards—is a huge statement that it is making some progress.

The Chairman: Can you help me to understand the issue of confidentiality? I can absolutely see why suppliers are nervous about coming forward and fearing punishment and so on, but presumably at some point who they are—the origin of the complaint—has to be revealed, because otherwise the retailer cannot really investigate if it does not know who has made the charges. How does the process work, and at what point does it become clear where the complaint has come from?

Christine Tacon: It never becomes clear to the retailer where the complaint has come from. The majority of the things I am talking about, such as the forensic payments where the retailers were using these no-win no-fee auditors to go back six years, were happening to almost every business, so it did not matter whether they were in toiletries, fresh produce or wine, it was happening to them. Generally, in my top five are issues that almost everybody faces. Therefore I am looking just for the breadth of them, which obviously helps to maintain confidentiality. One of the things I have been saying to people is that if I hear an issue from only one person, I am unlikely to do anything with it. I need to have the spectrum, which is why meeting suppliers and saying, “These are my top five. Am I working on the right things?”, is always endorsing that. It is not as straightforward as one person having an issue.

The Chairman: Okay, I can see that now. Lord Cameron.

Lord Cameron of Dillington: You have spoken twice now about your top five issues. Would you like to outline them?

Christine Tacon: When I started off, there was the forensic issue that I have just talked about—going back six years. There were demands for lump sums, which frequently happens at year end. Sometimes it is a discussion over, “We agreed at the beginning of the year that I was going to make a 38% margin. I have made only 35% and I am short, so you owe me this”, or it might just be, “My category is short of what I wanted to achieve. Your share of my category is 50%, so you owe me this”. Those are the demands for lump sums.

There was drop and drive, which is where, particularly in the chilled sector, a lorry would reverse up with the supplier’s delivery on it, and it may often be the retailer’s haulier that it has designated, and the supplier says, “I have put 100,000 units in”, and the retailer takes them, splits down the load, sends them out to its depots, gets to the end and says, “You were 100 units short”, and just deducts it off the payment. They might well have been put on the wrong pallet or something else, but many of them count only what is short as opposed

to what is over, so they will deduct it immediately. The suppliers were saying that they had no recourse or way of coming back. A group of 20 suppliers were working together through a consolidator, so they were sending full pallets, the consolidator was splitting them up and sending them out and they ended up with an empty warehouse at the end of the day. They were saying that there were errors of three in 10,000. Over a three-month period it was monitored by external people—not at my behest, but I knew all about it and they were keeping in contact—and they found that the retailers were then claiming error rates of over 30 in 10,000. So two lots of people had said, “This is what there is”, and by the time it got to the retailers the error rate was bigger. Those businesses said that they were losing £15¹million a year this way. That was drop and drive.

Another one was packaging, particularly in own label and very much in fresh, where a retailer would tell its suppliers which were its preferred packaging suppliers and the suppliers were finding that they were paying more for the packaging than they could get for an identical product elsewhere. The nuance was: is there a kickback going to the retailer? It would have been against the Code if the supplier could have bought it cheaper elsewhere. They were also overcharging for the artwork; every time the retailer changes something they charge suppliers for all the artwork. They felt they were being overcharged on packaging.

The final area was forecasting, which I talked to you about before. The issue was about putting more rigour into forecasting and not penalising the suppliers for not meeting an order if the retailer’s forecast was out in the first place.

The Chairman: That was the area that we were very interested in from the food-waste perspective, because we had evidence from farmers and growers that they felt that was driving food waste because they had no choice but to overprovide. That is really useful and interesting, thank you. Lady Byford?

Q2 Baroness Byford: Again, I formally declare my interests. I have a farming business in Suffolk, and Christine and I are both members of the Worshipful Company of Farmers. It need not be declared, but I think it should be.

Christine, can I pick you up on the last bit on forecasting and ask you to tell us a bit more about that? I will then go on to my specific questions.

Christine Tacon: All the retailers have just done some large pieces of homework for me. One was on forecasting and another was on what they were charging for customer

¹ This was amended by the witness from the original stated figure of £20m on 16 March 2015.

complaints. I have asked them lots of questions about how they do the forecasting and how accurate it is. I have asked them to do a case study over a three-month period looking at what they are doing to improve their forecast accuracy. I am going through all the answers at the moment. Some of them have replied in full and some of them have not, so I will be asking more questions. The common theme across all the answers is a recognition that they need to do more and are trying to make progress. Some of them have given very thorough answers and are saying, "Our forecast accuracy three years ago used to be within 10% and now it is this much", and you can actually see the trend. I think they all recognise that if you want to be efficient and take costs out of the supply chain, forecasting is a very obvious way to do that. I am pleased with that. That is progress.

Baroness Byford: The other thing attached to that is the whole question of food waste. Is it easier now to get perishable food into food banks? Has that resulted from any of the work you have been doing, or is it totally outside your brief?

Christine Tacon: It is outside my brief. It is something I might have known something about two or three years ago, but you have just asked if it is easier. I do not know.

Baroness Byford: Fine, I will go directly to what is relevant. As you know, the code of practice and the upper limit of the fine has now gone through Parliament, which I am sure you are delighted to see has happened.

Christine Tacon: With your support.

Baroness Byford: Well, we kept trying. When you spoke to us two years ago, you were talking about how you wanted to influence behaviour rather than ending up having to fine people. Have you noticed a difference already, or is it still too early to say? Do you think that the fact that you are there and are looking at things specifically has actually changed the practice?

Christine Tacon: In the way I work with the retailers, they almost cannot avoid making changes, because I meet them four times a year individually on these top five. Then I have two meetings a year with all the code compliance officers together, and they have to report back to me at each meeting on what progress they have made in those areas. I see progress because they are reporting back to me. I said from the beginning that I would work collaboratively in raising the issues and giving them the chance to put them right and to tell me how they were trying to put them right before I started going down more formal routes.

Baroness Byford: Is there a built-in time, or is it your gut instinct as to how much leeway you allow them before you go down those more formal routes?

Christine Tacon: I have closed some of the issues. I talked to you about my top five. I have actually formally closed the forensics issue and I am now closing the drop and drive issue, because I have told them all about it. But if somebody raises some issue in six months' time because some of these retailers are doing this or that and it was one of those two issues, that is what I mean by, "Then I go straight to an investigation". I am closing issues when I feel that I have done all I can to raise them—not that I never hear about them again—but formally telling them. Now if I hear of an issue raised in this area again, that will be investigated.

Lord Williams of Elvel: Excuse my ignorance, but what is the status of the code? We have the Highway Code at one end of the spectrum, which is a virtual extension of road traffic law, and if there is a breach of that, that gets the police interested. At the lower end of the spectrum, codes of practice are sort of voluntary and rely on complaints and so on. Where on that spectrum does your code lie?

Christine Tacon: Right up with the Highway Code. It is law. That is absolutely clear. When I am talking about breaches of the code, I am talking about breaking the law. Generally, unlike the Highway Code, some of these areas might be a bit woolly—what is "reasonable notice for a delisting"? There is no figure on it, which is why it needs a bit of engagement beforehand rather than immediately saying, "You have gone through a stop sign".

Baroness Parminter: Can I go back to the question raised by the Chairman about confidentiality? You have talked about your five issues, which are the processes for collective issues, so I can understand that it is quite easy to contain the confidentiality issue because it does not apply. Now that you have the power to fine the 1%, there is going to have to be some evidence of individual retailers causing problems, and they will have the right of reply. That will require some release of the evidence that has been given by the suppliers, to my understanding. I would therefore like a little more clarity about what you are going to do to ensure confidentiality in this new regime, which we have rightly moved to, which gives you the power to fine.

Christine Tacon: When I am in my collaborative mode, which is working with people and tipping them off on things I am hearing about, that is very much in the top five that I have been talking about. Only when I launch an investigation do I start to go anywhere near this area of being able to fine, so now having launched an investigation into Tesco, I will require documents from Tesco and call for evidence from suppliers. Then I can require information from suppliers and start to build up a picture of what I am seeing and looking at the breadth

of it. One of the areas that I am talking about is payments made for shelf positioning. If I have had evidence that payments have been demanded for shelf positioning, I will say that I have evidence. The report that I do at the end of my investigation will not refer to sectors or to suppliers, but it will say that I have found that evidence. If I am taken to court, the evidence will be there, but it will not be in the report and the retailer will not see it.

The Chairman: Very quickly, what happens to any fines that you levy?

Christine Tacon: They go to the Treasury.

The Chairman: I sort of knew that.

Christine Tacon: You have specifically asked me about the penalty, but clearly I have another route of working, which is through arbitration where one supplier has an issue with one retailer. There, it is clear that both parties are known to each other. At the end of that process, I can award compensation. It is only under arbitration that the supplier gets anything back. I have been trying to say to suppliers that these are things that they have been living with for years, and I am going to try to clean things up for the future. It is not about me getting the fines and giving them back to the Treasury; it is about cleaning things up.

The Chairman: That is very helpful. Thank you.

Q3 Lord Bowness: Good morning. I was going to ask you about penalties anyway, but following on from the question Lady Parminter asked you, yes you produce your report and the suppliers are not named, and you say that the evidence is produced only when the matter goes to court. Then the suppliers are clearly identified, surely. I cannot see how you can be in court and not produce the evidence.

Christine Tacon: You are asking me a hypothetical question. The retailer has a full right of appeal against a penalty, but the supplier's anonymity is still protected under my Act. I am not aware of the court processes myself, but I would assume that this is something that the judge could see but the retailers could not.

Lord Bowness: I thought we had introduced that kind of legislation only under the Terrorism Act, but I confess that I am out of date in practising the law. I did not know that you could not produce the evidence.

Christine Tacon: As I say, I am not an expert in the area. Bear in mind that a lot of my evidence comes from the retailers themselves. The code compliance officers I work with are generally legally trained or they have a lawyer by their side. They will know when they have broken the code as well.

Lord Bowness: Thank you. I will go on to the order that has provided for the 1% fines. It is not retrospective, so you cannot impose a penalty in respect of any activities in breach of the code before then. Has this proved to be a problem? May I say that I am not actually an advocate of retrospective legislation, but perhaps you could tell us whether there was a reason that you know of, bearing in mind that the Act was passed in 2013 and we have only just produced the order providing the fines; it comes into force in April 2015?

Christine Tacon: I shall answer the last bit of your question first. I was required to make my recommendation in December 2013, which I did, so the delay beyond that has been out of my hands. I am delighted that we now have the order. I knew that it was going to come, although obviously I did not know if I was going to get the amount that I recommended—I have, for which I am very grateful. The retailers all knew that it was coming. I am not sure that they had necessarily clocked the fact that it would not be retrospective, but it has had no impact on the way I have been working because it is about all of us understanding the code and them understanding my interpretation of the difference between “request” and “require” and that sort of thing. This has actually been a very useful time up till now, because everybody has been given a chance to understand things with me, so it has not been an impediment to me at all. The point is that I have it for the future, so it does not worry me. Of course, I have only just launched my first investigation, and the penalty comes into play only at the end of an investigation, so at the end of the day this is the only investigation which the lack of a penalty will have an impact on.

Q4 Lord Renton of Mount Harry: I am a partner in a family vineyard in Sussex. The Commons Environment, Food and Rural Affairs Committee received evidence during its recent dairy prices inquiry that your role and remit should be extended to cover relationships throughout the entire supply chain. This call for change has been echoed quite loudly in recent weeks by the farming industry. Is it realistic? Do you support such a call for change?

Christine Tacon: My standard answer has to be that it is not appropriate for me to promote or to seek any changes or extensions to my role. Some of this might require primary legislation and therefore it is much more your area, and that of the Competition and Markets Authority, than it is mine. All I would say is that the job is big enough as it is for me at the moment. The fact is that it is a three day a week position, and I am working with 10 of the largest businesses in the UK and trying to change an embedded culture. I am totally focused on the job in hand. Bear in mind that my office is paid for by a levy on the retailers,

so if you started extending it to their 8,000 suppliers, it would become a completely different job. At the moment, I have 10 code compliance officers who I work with very closely. I work with the CEOs of those businesses and I have recently started to meet the chairs of their audit committees. I can do the job really thoroughly because it is a manageable size for me.

The only positive thing I can add in terms of an extension is that many of the retailers have chosen to treat all their suppliers in the same way rather than segregate grocery suppliers from other suppliers. The GSCOP only applies to groceries, and it is easier for them to go broader, so there has been a bit of an extension in that way. I prefer to say that I am coping with the job as it is and I do not underestimate the size of the job that I have at the moment.

Lord Williams of Elvel: Can I ask you a very quick question? You said that it is the retailers who finance your office. In other words, the retailers are paying you to enforce the law against them.

Christine Tacon: It is a levy, it is a tax. Every year I put a proposal to BIS setting out how much money I want for the next year. BIS agrees it and then I invoice 10% to each of the retailers. So when I say that they are paying for me, it is not necessarily willingly. That is good, because if they cause me trouble, I have to charge them more.

Q5 Lord Trees: I am interested in a similar question to that put by Lord Renton. I am a veterinary surgeon, although I do not have any farming interests. The plight of the dairy industry is a particular concern currently, and I have asked a Question about it in the House. Echoing what you have just said, the Minister said that extending the code to the producers who supply the suppliers would require primary legislation. Could you say a bit more? I recognise that it is difficult for you, but retailers do not have the exclusive right to enforce hard deals. Their suppliers get their goods from other suppliers. Particularly when we are talking about really fundamental primary products such as milk and the protection of the industry, are there any measures that could be used currently to protect such producers? A few years ago, we had a dairy farm in my university faculty. I do not know whether this is still the case, but the processors could retrospectively change the price that they had agreed with the farmer for milk that had been delivered months before. Those are clearly scandalous practices. Do you not think that we should be trying to address them, and how might that be done?

Christine Tacon: Your last point has thrown me a bit because I have not heard of that sort of thing happening before. I am not directly engaged in this, but obviously I hear about these things as much as the rest of you do, and some people try to make representations to me about this. But they are generally not talking about contracts being broken; they are talking about not getting the price they want. Even in the code as I have it, covering the suppliers to the retailers, I have no remit on price. If somebody has agreed to supply something at a price that is lower than they can afford, I cannot get involved. I get involved if retailers vary the supply agreement without proper notice, if they ask for retrospective lump sums, and if they have got their forecasts wrong, caused the supplier huge embarrassment and have not compensated them. Do you know what I mean? It is not actually about the price. Generally when farmers speak to me it is about the price of beef, the price of milk, or even the price of fleece. But it is all about the price, not the contract. If the contract says, “We will pay you according to the global price of skimmed milk, plus something or other,” that is your contract. Generally, I have not been hearing about breaches of contract, just that the contract is not necessarily one that they would have chosen to sign up to.

The Chairman: Can I take you back to the question of the supply chain? What is to stop retailers over the coming years just making adjustments to the way they get their goods in order to circumvent the code, perhaps by hiding behind other suppliers?

Christine Tacon: I complimented the legislation in the first place, because it makes it very clear that if they are using somebody else to source for them and that person is dedicated to them, that automatically comes under the code. If the retailer has somebody based in South Africa sourcing their fruit for them—and generally because of the competitiveness between the retailers, if it is your employee or your agent, they will be doing it exclusively for you—that is covered by the code.

The Chairman: That is very helpful. Thank you.

Q6 Baroness Howarth of Breckland: We are an EU Committee and we are interested in what happens across the European Union. You may remember that we produced a report on food waste prevention and we commented in that about an EU-wide adjudicator. What is your view about that? Are you seeing any developments in Europe or even in some other European countries that are going that way? Also, you have spoken about whether these are direct or indirect relationships, which we are looking at for a binding code rather than a voluntary code. I wonder if you could comment on these issues in the EU context.

Christine Tacon: I should start by saying that I thought your report on food waste was very good. It was comprehensive and easy to read, and I was glad to have given evidence so that my name was in it. Thank you.

I cannot comment on what I think about the EU code, but what I will say is that earlier this year I attended an EU symposium that was set up by Maria Rehbinder in the Commission. There were representatives from 10 member states there and they were absolutely adamant that they were not going to hold it unless I was going. I said that I could not keep coming to Brussels, and asked whether, if I came over once this year, this was what they wanted me to come to. They said yes, so I went and presented on our code. All these different member states were talking about what they are doing. There is an enormous amount of progress and people are actually regulating on their own, so in the absence of the voluntary code, regulations are coming in. Some of them were quite interesting. Ireland has regulated already, and Irish representatives have come over to see me two or three times now to talk about the code and try to learn from us. The Norwegians have been over. At our conference in June last year, around 25% of the attendees were from the EU and overseas—Australia, New Zealand and Canada. In a way, we are leading on this, and everyone is watching us and wants to know how it is working.

Although we are not involved in the voluntary code, I often talk to people about it when we talk about the indirect suppliers. I say, “There is something that you could use”. Some retailers in the EU will have signed up to it, but I think most countries recognise that that is not really going to work and they want to do something themselves. My recommendation to them, which we were talking about, is this: why not have a common code across the EU and then implement it in the way each country wants to? Given the speed at which it is going, everybody is going to have regulation by the end already, and if they are all looking to us and learning from us, hopefully it will all be fairly similar in the end. Also, if it is going to be as difficult as I am telling you it is to get the information from suppliers, actually having somebody who is prepared to go out and talk to people, listen and engage is probably more important than having some EU person representing everybody.

Baroness Howarth of Breckland: Many of these companies are global anyway, are they not? How do you work in that global sense? In hearing from other countries, are there things that we can learn, or are we way out ahead?

Christine Tacon: When you say that “many” of them are global, not many of the retailers are. Some of the suppliers are global, but a huge number of them are not. But I deal with the

same issues whether they are global or not. There is one area in the EU voluntary code that is not covered in ours, which is to do with intellectual property. The practice of ripping off brands is covered in the EU code but not in ours. I am not going to comment on whether that is good or bad. Also, some other countries are introducing their own regulation on payment terms and how quickly people should be paid. They are actually differentiating between the speed of payment for fresh produce and the speed for other goods.

Baroness Howarth of Breckland: Are you able to say whether you think that is positive? I know we have to be careful about not suggesting a change in your role.

Christine Tacon: It is probably best that I remain careful, simply because I know that BIS is consulting on this at the moment. I have fed my views into BIS.

Q7 Lord Cameron of Dillington: I am a farmer and I chair the All-Party Parliamentary Group on Agriculture and Food for Development. How are you getting on with getting the information out to suppliers, particularly those in developing countries? Are the retailers helping you with this, and are they actually fulfilling their obligations? What are the problems and issues? How is that side of it going?

Christine Tacon: You sort of have your own answer there. You talked about “fulfilling their obligations”, so you know that they are legally required to make sure that all their suppliers know about the code. Overseas suppliers should be being told about it. Most of the retailers say that they have something on their websites telling people that their contracts say that they have to be GSCOP-compliant. I have challenged them and they have all told me that they make the information available to all their suppliers. But in terms of waking suppliers up and ensuring that they recognise what this actually means, my obvious routes are things like the trade associations. That was partly why we videoed the whole of our first conference and put it on the website, so that if people had heard about something and wondered what it was, they were able to find out. I also speak to NGOs such as Traidcraft and Feeding the 5000 to make sure that they are fully aware of the code. They correspond with us when they come across things that they want us to know about.

We sent out a survey to suppliers last April to get their feedback. At the end of the day, if I am working in a collaborative way, I need to measure how things are getting better. It was very clear from the survey that they wanted me to be measured on supplier relationships rather than on penalties and investigations. I will repeat the survey this year. Over half of the retailers have agreed—the others have not said no, they just have not said yes yet—to send the link to the survey to all their supply base. That is great, because it means that the

supply base will get the link and can go to it. Even if they have never heard of the Code before, it will make them think, “Why have I been sent this? I wonder what it is”, and as they start going through the survey it will alert them. If half of them have said yes and the other half do not, it will still probably touch all the suppliers because very few suppliers supply every retailer exclusively. It is slow, but I think I am doing something about getting the message overseas.

Lord Cameron of Dillington: There seems to be an understanding in everything that you have said that your suppliers in developing countries are IT literate, literate at all, and knowledgeable about these issues.

Christine Tacon: The code applies only to direct suppliers, so although you might be a grower, there will be somebody who is consolidating that. The direct supplier is the person who invoices. I cannot imagine a non-IT literate direct supplier, because the retailers correspond through IT. I am only aiming to get the message to the direct suppliers; I have not been trying to get to the growers.

Lord Cameron of Dillington: You said earlier that an agent in South Africa, for instance, is equally as responsible for their behaviour as the retailer. Those agents will be dealing directly with farmers of all sorts. Perhaps you have not got down that far yet, but that would seem to be a logical next step.

The Chairman: Perhaps I may add to that. One hears stories of the kind of abuses that you are dealing with here: that these are going on in developing countries but are actually in many ways worse—last-minute cancellation of orders and the rejection of large amounts of produce on quality standards grounds where the grower has no right of appeal. If it is just decided that 20% is not fit, you have no argument against that. That obviously plays to the food waste agenda, but in developing countries the impacts on farmers are just devastating. My question follows on from Lord Cameron’s. You may be able to the message to the suppliers that they have duties under the code, but unless the growers know that they also have some rights and that they are able to complain and bring you evidence, that aspect is quite difficult.

Christine Tacon: The code applies only to the relationship between the direct supplier and the retailer. If the grower wants to bring the evidence, they can do so only about abuse between the retailer and the direct supplier. I do not think it is necessarily clear as to whether it is the retailer who is messing the growers around or the direct supplier. I am

doing my best to make sure that all the direct suppliers know so that we can work out whether it is the retailers.

Baroness Howarth of Breckland: You have talked about your relationships with NGOs. Presumably you giving them information will help them to go directly to growers and to see the whole chain. There must be a spin-off. You talked earlier about the spin-off in other areas by your just being there and asking questions.

Christine Tacon: Yes. I have had meetings with NGOs and they know the sort of evidence that I am looking for and that I need to know. They need to establish themselves whether it is the retailer who is breaking the code with the direct supplier or whether the direct supplier is just being a bit maverick with its growers. Certainly, they have told me that they are going to go away and get the evidence. We had a good chat about it beforehand, so they knew what I was looking for, and they said that they were going to come back. I have noticed a flurry of emails recently. I think they are trying to set a meeting up so that they can come back to me and tell me what they have found.

Q8 Baroness Byford: Perhaps this is a question for later, but looking back at the minutes of the evidence that we took from you before, I think it is one of the questions that I raised and I am glad that it is being raised again. I think we have to accept that what the adjudicator is trying to do at the moment is to get the house in order as far as the suppliers are concerned. It would be very interesting for this Committee in, say, 10 years' time to look back and say, "Should we be looking at work further down the line?". I was quite surprised, because one of my worries is that if I am a farmer who is supplying and my supplier will not come forward, how can that be investigated? I think that at the time—I am seeking clarification from you really, Christine—that could be reported and an organisation could bring evidence on behalf of a particular grower to the supplier.

Christine Tacon: That is correct. When the legislation was going through, there was some discussion as to whether the trade associations could bring evidence, but really it has been left that anybody can bring it. If the farmer-grower thinks that something has gone wrong in the retailer/supplier relationship, they can report that to me. I have also been trying to encourage trade associations—in fact, I have been trying to encourage the members of the associations to encourage their trade associations—to represent their members to me. If the trade association can get a view from their members that there is an issue, they can consolidate that and give it to me without anybody being named. That gives them another protection of confidentiality, so the trade associations could be quite a useful weapon.

Q9 Lord Plumb: As a defender of rural interests and enterprise, I speak as a farmer who takes the “yellow peril”—*Farmers Weekly*—and you will have seen the editorial last week calling for a supermarket watchdog “with real bite”. Of course, those who know you know that you have a considerable amount of bite, but you have spelt out the limitation in detail and it is very clear. You have been fairly broad and general in your remarks. Is there a specific example that you could give us—you may not want to do it now—of something that has happened during the last two years, say, that would be of interest to us and that would give us a clearer picture of how you can deal with each side of the whole operation? We also have to remember, looking ahead, that there is an election coming. I believe that your role and the work you do is going to be an election issue. Every party is going to be questioned about and interested in how they see this. We had a real battle, as you well know, in getting this through when we debated the whole business in this House—before you started, of course. Many of us were very surprised at the opposition that we had. I do not see that rising again, but on the other hand we need to be very clear that if this does come up again—if it is an issue at election time, as I am sure it will be; if it is not, we shall make it so—there are several things that should be done. Looking ahead, how do you see those sorts of developments taking place? You said very clearly that you think the job is big enough at the moment, and I am sure you are right. On the other hand, what progress is needed if we are going to keep you going through that period of time, which will be helpful to all sides in making sure that there is fairer play between the producer and the consumer?

Christine Tacon: Part of my view of where we have got to is that a lot of the issues in the code—the EU calls them unfair trading practices—generally started with the retailers. The fact that that is now controlled and there is a code of practice and that I am trying to stop them and jump on them, and the fact that it started up there and then moved down the chain, means that I am hoping that there will some element of that moving further down. Sometimes I get other businesses coming to hear me talk and I say, “Why are you here?”, and they say, “We think it is going to end up being spread to us at some point, so we would quite like to learn about it”—either that they are going to come into scope of the code or that they are not quite sure why they were left out in the first place and are worried about that. It tends to be the top of the chain but with other people around the edge.

You asked for an example. I talked about the progress that we have made on forensic audits. Where the retailers were having issues on drop and drive, when we gave them the evidence, they realised that one of their depots was eight times worse than the others, so that gave

them something to home in on and make a difference. I do not know if that is the sort of example you meant.

Lord Plumb: I think it is.

Christine Tacon: There are other times when I spoke to people and someone says, “I had a retrospective demand for £350,000 for something under forensic auditing that was five years old, and I told them that you had been talking about it going back only two years, and the invoice was cancelled”. I said, “Were you going to write to me and tell me that?”. Now I am actually asking people to write and tell me.

Lord Plumb: That is exactly what we are looking for.

Christine Tacon: Someone else said that as a direct result of me intervening, the preferred supplier list for packaging had been extended by the retailer, they got a competitive quote and have written to me saying that they are now saving £250,000 a year on packaging. I say to people, “Please, if you see that something is working, will you write to me and tell me, because that is the evidence that I am looking for to move things forward”.

The Chairman: Would you agree that some blowing of your own trumpet is important? While I am absolutely in favour of the fines that have just been agreed, one of my worries is that a future measure of success will be, “How much has she fined them?”, when actually the fine should be the deterrent and the last resort. These things can get a bit macho.

Christine Tacon: That is why I am relying on my survey, which is partly why I was asking the retailers to help me to get the survey out more broadly. I got a response of about 600 last time, and I would like to get many more, because I am saying to people, “Even if you do not tell me about breaches during the year, I want you to report to me in the survey that this happened and that we dealt with it, so I know what the issues still are”. In the first survey we said, “How do you want the success of the GCA to be measured? Is it the number of investigations or the penalties that are imposed?”. Overwhelmingly the answer was: a more collaborative supply chain. As long as I can prove that that figure is going up so that when the survey comes out—we are doing it just before the purdah period, so the results will be announced in June—I want to say, “Look, this is the progress that we are making”, which is why I was trying to get my success stories in as well to answer the people who were saying, “You have not used the fine. How can you prove that you have made a difference?”.

The retailers are the suppliers’ bread and butter. They just want them to work with them more collaboratively. They want it to be easier. Going back to Lord Plumb’s point, price is not in it, and generally the issues that I hear about from the growers are things such as

forecasting—being knocked all over the place about what the volumes are going to be—which is why I have been raising it right at the top with the retailers. I hope that if I can put more pressure on that—as I said, a lot of them are investing in systems, and one retailer talked to me about all the work they were doing on forecasting and putting in new systems. I said, “Are you doing this because I asked you to?”, and they said, “Well, it was on the to-do list, but it has been brought higher up because you have raised it”—it will have an impact lower down as well.

Lord Plumb: I think our Chairman’s point about blowing your own trumpet is a very valid one. The *Farmers Weekly* editorial is complimentary about you, but there may be a follow-up by one or two people who are not so complimentary. I would like to see you answering that editorial, because a lot of the things you have been able to say to us today need setting out quite clearly: what your role is, what your responsibilities are and how far you can go. I have a lot of experience of facing this sort of thing in the past, and if you do not nip it in the bud fairly soon, the danger is that it starts to grow, and grow in the wrong way. It becomes a bit poisonous, so I am just sowing that seed. It does not necessarily have to be you answering it, but somebody who knows what is going on has to.

Q10 Baroness Parminter: The retailer levy to fund your office will go up by 40% next year. You said that that figure was agreed with BIS. First, was that £1.1 million the full amount you asked BIS for?

Christine Tacon: Yes, it was.

Baroness Parminter: Thank you. Secondly, do you think that is going to be sufficient to cover all the new responsibilities that you have taken on with the fining? Perhaps you could talk a little bit about where you see the money going.

Christine Tacon: The levy is covering the cost of running the office. I am not quite sure what it is called, but because we come under Treasury rules I cannot carry money between years. So at the end of the year, if I have not spent all the money I have to give it back. Of course, I want to have some headroom to fund an investigation. Obviously it costs money to bring in lawyers, and I have to bring in a team to do the investigation as well. Because I have to give back everything that I am carrying at the end of the year, I needed to bring the money in to fund it. Largely it is because I want to make sure that I have headroom of about £300,000 to front investigations. That is what it is for. It is not the running cost of my office, which has not really changed at all; it is just having the headroom to do an investigation, and it was on that basis that I asked for it. It would have been much easier to have held back

money that I had not spent each year. If I find a retailer in breach of the code, that retailer pays the costs in full and I get it back, but obviously I have outgoings until that point. So not only might they have a penalty, they have to pay the full cost of the investigation.

The Chairman: Thank you very much indeed for coming to update the sub-committee today. I think we have all found it really useful and very encouraging. At some point we would love to have you back. We will certainly be watching your progress with great interest and wish you all the best in what you are doing.