

REQUEST FOR FORMAL RECOGNITION
OF THE UK GROCERIES SUPPLY CODE OF PRACTICE
(GSCOP) AS EQUIVALENT TO THE EU VOLUNTARY
AGREEMENT ON B2B PRACTICES IN THE FOOD SUPPLY
CHAIN

The British Retail Consortium (BRC) formally requests that the governance group of the EU voluntary agreement on B2B practices in the food supply chain recognises the equivalence of GSCOP with the voluntary agreement. Specifically, BRC requests that the governance group recognises that:

- GSCOP is a legally-binding system that imposes strict disciplines and requirements upon a list of ten named (designated) retailers.
- the legally enforceable disciplines imposed on the contractual relations of designated retailers by GSCOP are substantially the same as those applied by the voluntary agreement.
- where there are differences in the formulation of disciplines between the two systems, there are no instances where the voluntary agreement offers greater protection to suppliers than GSCOP.
- the administrative arrangements for implementing the provisions of GSCOP are substantially the same as the administrative arrangements for implementing the voluntary agreement
- where there are differences in the formulation of administrative arrangements between the two systems, these do not have a material effect upon the rights of complainants.

As a consequence of the points above:

- any GSCOP-designated retailer that wishes to participate in the voluntary agreement must comply with the “sign-up” provisions of the voluntary agreement, i.e signature at a sufficient level of seniority within the company.

- any retailer designated under GSCOP¹ that chooses to sign the EU voluntary agreement will be deemed to be compliant with all of the “process commitments” of the voluntary agreement by virtue of its coverage under GSCOP (except in relation to reporting requirements, which are dealt with below).
- any alleged breach of process commitments by a GSCOP-designated retailer can only be pursued via the mechanisms envisaged under GSCOP (although the governance group will retain the right to remove a signatory from the voluntary code on the basis of sufficient evidence for exclusion).
- any retailer designated under GSCOP that chooses to sign the EU voluntary agreement will be deemed to be compliant with the principles of the voluntary agreement by virtue of its coverage under GSCOP.
- any complaint by a supplier, group of suppliers or other party regarding an alleged breach by a GSCOP-designated retailer of the disciplines relating to contractual practices themselves (i.e. the “principles” of the voluntary agreement) can only be pursued through the provisions laid down in GSCOP/Adjudicator Act.

The BRC recognises that there will be a requirement for all signatories to the voluntary agreement to complete a short annual on-line questionnaire relating to their performance under the voluntary agreement. The BRC understands that the responses to this questionnaire will be aggregated and anonymised on a country-by-country basis. The BRC requests that this questionnaire is structured in such a way as to enable GSCOP-designated retailers who have signed the voluntary agreement to easily provide a summary of their performance under GSCOP. In addition, the newly-established Groceries Code Adjudicator is committed to publishing an annual report on the performance of GSCOP. This report must contain a summary of the disputes referred to arbitration under GSCOP, investigations carried out by the Adjudicator and cases where the Adjudicator has used enforcement measures. The BRC will ensure that the annual reports published by the Adjudicator are sent promptly to the governance group to supplement any information provided through the annual survey.

¹ These conditions will apply only to those contractual relations governed by GSCOP, ie. “...any agreement with a Supplier for the supply of Groceries for the purpose of resale in the United Kingdom.” (GSCOP Art. 6(1))

The following documents are attached as supporting evidence for the BRC's request:

- The Groceries (Supply Chain Practices) Market Investigation Order 2009²
- Groceries Code Adjudicator Act 2013
- A comparative assessment of the provisions of GSCOP and the voluntary agreement.

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² This Order incorporates GSCOP.