



Australian Government

Australian Government response to the Review of Part 5 of the Food and Grocery Code of Conduct

December 2023

Introduction

The Food and Grocery Code of Conduct (the Code) is a prescribed voluntary code under Part IVB of the *Competition and Consumer Act 2010* (Cth). The objectives of the Code are to promote transparency and certainty in commercial dealings between the parties and provide an effective process for resolving disputes without the need to resort to legal action.

The Code contains rules about how supermarkets (also known as retailers) and wholesalers of grocery products in Australia must deal with their grocery suppliers (which includes food manufacturers and farmers). Woolworths, Coles, ALDI, and Metcash Food & Grocery (Metcash) are signatories to the Code and are bound by it.

This review considered:

- The effectiveness of the provisions in Part 5 of the Code in meeting its purpose of providing an effective, fair and equitable dispute resolution process for raising and investigation of complaints and resolving disputes arising between retailers or wholesalers and suppliers.
- Any barriers that may be preventing suppliers from fully utilising the dispute resolution arrangements in Part 5 of the Code.
- If appropriate, options or alternative approaches for improving the dispute resolution provisions in Part 5 of the Code.

The Review does not recommend major changes to Part 5 of the Code at this time, noting that:

- there is broad ongoing support within the grocery industry for retaining the current dispute resolution framework
- the current framework should be given more time to work – particularly as it was not fully implemented and operational until March 2021, and
- the low number of disputes that have used the current framework does not necessarily mean that it is not working, particularly as suppliers have reported relatively low numbers of serious disputes in the Independent Reviewer’s 2021–22 annual survey.

The Government would like to thank stakeholders for their involvement including through submissions and participation in roundtable meetings.

Under Section 5 of the Code, a second review of provisions other than Part 5 commenced on 3 October 2023.

Response to the recommendations

Recommendation 1

The Government should consider amending the Code to:

- a) enable Code Arbiters to mediate, and
- b) provide for suppliers being able to contact and seek preliminary information from Code Arbiters without making a formal complaint.

Australian Government response

The Government **supports** this recommendation.

Strengthening the toolkit available to Code Arbiters to allow them to mediate disputes will increase the options available to suppliers to resolve their complaints more efficiently and effectively. Changes to the Code will be implemented as part of a broader package of reforms to the Code following the conclusion of the 2023-24 review of the remaining provisions of the Code.

Recommendation 2

The Government should consider amending the Code to:

- c) enable the Independent Reviewer to conduct an evaluation of Code Arbiters' complaints handling processes, to determine whether complaints have been handled in accordance with the Code and the Code Arbiter's complaints handling procedure, and
- d) enable the Independent Reviewer to require the provision of the Code Arbiters' complaint files as part of conducting this evaluation.

Australian Government response

The Government **supports** this recommendation.

Enhancing the Independent Reviewer's role in overseeing the conduct and complaint handling practices of the Code Arbiters will boost confidence in the Code's dispute resolution system. Changes to the Code will be implemented as part of a broader package of reforms to the Code following the conclusion of the 2023-24 review of the remaining provisions of the Code.
