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Mr Bob MacDowall
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Cc: Gerry Sutcliffe MP,
Department Trade and Industry,
1 Victoria Street,
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Dear Mr MacDowall

Re: Supermarkets: The code of practice and other competition issues

Thank you for the opportunity to respond to the consultation following your March 2005 report on supermarket competition issues.

Traidcraft

Traidcraft is one of the UK's leading fair trade organisations, selling food, household products, soft furnishings and clothing from nearly 100 producer groups based in 31 countries in Africa, Asia and Latin America. Traidcraft was established in 1979 and is comprised of two operational organisations: Traidcraft plc and Traidcraft Exchange, a registered charity. Traidcraft plc sells products into supermarkets, whilst Traidcraft Exchange, an international development charity, helps small producers access markets, including UK markets. (Please see Appendix 1 at the end of this letter for more information about Traidcraft)

Supermarkets and supply chains impact on developing countries

Traidcraft believes that it is possible for trade to reduce poverty in the right circumstances. However we wish to express our concern that market dominance by a few retailers who control significant proportions of the UK's market share is extremely problematic. (Tesco is expected to hold 30% of the UK groceries market

by June 2005.) These few supermarkets control suppliers' access to UK consumers. In this situation of imbalance, supermarkets are able to pass disproportional risks onto their suppliers, who then pass risks onto workers and smallholders. Overseas suppliers have mentioned the following concerns to Traidcraft Exchange which have implications for people working in supermarkets' supply chains:

- changing volumes at short notice
- agreeing the value of a delivery of products after it has been delivered
- demanding 'loyalty' donations of suppliers (e.g. when a retailer is about to miss their profit target) or requests for sponsorship
- lack of transparency and poor communications about what is stocked in the shops and what is not, and how promotions are run
- disproportionate and untransparent charging for customer complaints
- refusing to enter into long term contractual relationships.

Traidcraft Exchange has been working to increase market access for developing country products into the UK market, particularly from small scale producers. However once overseas suppliers have gained access to the UK market they have found themselves to be part of an extremely unbalanced trading relationship.

- Suppliers selling into supermarkets are unable to plan effectively
- Consumer choice is reduced because small suppliers are prevented from supplying supermarkets due to unreasonable demands and practices by the supermarket. For example, slow payment; expectation that suppliers have expensive IT systems to link into supermarkets' systems limit the ability of small suppliers to supply supermarkets and therefore reduces consumers' choice.
- Suppliers find themselves earning less than the cost of production due to purchasing practices by supermarkets associated with changes to terms including promotions. This has implications for how these suppliers in turn treat their workers and suppliers.

Traidcraft plc's experience of selling to supermarkets

Traidcraft plc has experienced the following unethical terms of trade with supermarkets.

- **Last-minute withdrawal of listings.** Agreement was reached by the supermarket and Traidcraft plc including new line forms correctly submitted on time. Significant volumes of stock were ordered in preparation to supply to the supermarket but then the listing did not happen. The risk is carried by the supplier with no payment from the supermarket the goods were ordered for.
- **Lack of transparency about charging for customer complaints.** A standard fee is charged for each customer complaint, irrespective of the nature of complaint e.g. I don't like it, damaged product, broken teeth). Customer complaint feedback from supermarket can be so minimal as to question whether a complaint was actually made. The charge is disproportionate to the value of the product – typically ranging between £20-£40 per complaint depending on the supermarket, yet the value of the product may be less than £2. It is also unclear whether the supermarket has only registered a complaint or reimbursed the customer for the product.

- **Dubious promotion.** Traidcraft plc paid to have a product on promotion but it was unclear whether the promotion was fairly implemented.

The imbalance of power between supplier and buyer is felt to the extent that Traidcraft is reluctant to say no to requests to sponsor a usually 'un-communicative' supermarket buyer for doing charity events, out of concern that this will influence buying decisions.

Comments on 22nd March 2005 Supermarket's code audit report

1 Does the audit portray an authentic **picture of supermarket-supplier dealings?**

- The Competition Commission Report in 2000 listed 52 kinds of abuse.
- The OFT's 2004 review of the Supermarket Code of Practice found that 80 to 85 per cent of respondents claimed the Code has failed to bring about any change in supermarkets' behaviour. This means abuse by supermarkets is still continuing. The current code is not an effective mechanism for dealing with supermarket-suppliers relationships due to suppliers' dependency on supermarkets to sell their products to the majority of the UK public.

2 **Do the 25 practices 'prohibited' by the Code continue?** (3.24)

Yes concerns remain in relation to payment times and prices, as explained above.

3 Are there any **other practices** adversely affecting competition? (3.24)

See above.

4 What are the **adverse effects on** competition of the practices referred to in 2, 3 and 4 above? (3.24)

The Code is failing to protect overseas suppliers.

The supermarket sector is so concentrated it is difficult for overseas suppliers not to trade with supermarkets if they want to sell into the UK. This reduces the suppliers' ability to resist these practices prohibited by the code. Suppliers respond in two ways. They charge higher prices to other retailers, if they can, to balance their books, leading to an uneven market place for consumers. Or suppliers find other ways to reduce costs, which inevitably involves cutting corners e.g. health and safety, labour standards, and quality.

The UK Government promotes market access, but when developing country producers start to supply the UK supermarkets overseas suppliers are often forced to accept prices below costs of production, cover the cost of discounts, and make 'donations' at the whim of the supermarkets. Bananas are the single biggest profit making item sold in supermarkets and yet prices paid to suppliers makes it impossible to pay workers a living wage on some plantations supplying the British market.

5 Section 3.36 reputation of supermarkets

In Section 3.36 there is an assertion that retailers are concerned about their reputation. From Traidcraft's involvement in the Ethical Trading Initiative – we have

not seen an improvement in labour standards within supply chains of supermarkets as might be expected by the public exposure of extensive labour rights abuses within supermarket supply chains. In fact the purchasing practices of retailers undermines the ability of suppliers to bring about labour standards improvements because suppliers receives less than the production cost for products sold. Paying the cost of production is a key enabling factor if labour rights (set out in the International Labour Organisation's core conventions) are to be respected overseas.

- 6 Would welcome evidence on nature and prevalence and adverse effects on competition of **below cost selling and price flexing**. Have the effects increased such that the CC's 2000 conclusion, that the benefits of imposing remedies would be outweighed by the disadvantages, might no longer be valid? Would also be interested in comments on potential remedies, bearing in mind the reservations, which led the CC not to make recommendations for remedial action (4.10).

The public policy implications of in-action (reduced consumer choice; social impacts from un-fair supply chains) are so severe that OFT and HMG need to find a way to reduce the imbalance of power between suppliers and supermarkets, as well as find a mechanism to protect suppliers. A strict Statutory Code of Practice to protect supermarket suppliers is needed and an independent Retail Regulator to enforce it. An independent and confidential regulator, will allow suppliers to bring forward complaints in confidence. Supermarkets have so much power now that suppliers need a form of 'witness protection'. Under the current system suppliers must put their livelihoods at risk if they report a complaint as the complaint has to go through the retailer.

- 7 Has **supermarket entry into convenience store sector** adversely affected competition and are consumers worse off? (4.11)

Yes. Supermarket entry into the convenience store sector has increased the market share of the largest retailers, enabling them to make more demands of their suppliers. In the convenience store sector it has lead to smaller buying groups reducing smaller convenience stores ability to compete on price, undermining their ability to survive. As more convenience stores are taken over or close this reduces the opportunities for overseas suppliers to access the UK market, and therefore reduces choice available to consumers.

I hope you find this response helpful with your ongoing enquiry. As a small scale supplier to supermarkets and as a supporter of small businesses overseas we would be happy to discuss these issues with you further.

Yours sincerely

Fiona Gooch
Policy Unit
Traidcraft

Appendix 1: **Traidcraft**

Traidcraft is one of the UK's leading fair trade organisations, selling food, household products, soft furnishings and clothing from nearly 100 producer groups based in 31 countries in Africa, Asia and Latin America. Traidcraft was established in 1979 and is comprised of two operational organisations: Traidcraft plc and Traidcraft Exchange, a registered charity.

Traidcraft plc is a medium-sized company which had a turnover in 2003/04 of £13.8 million and made a profit of £348,000 after tax. Traidcraft plc has recently raised £3.25 million in a successful share issue. Traidcraft plc sells products into supermarkets, and independent shops as well as through catalogue, internet and individual traders.

Traidcraft Exchange is a development charity whose work spans capacity building amongst producers in developing countries, market access, policy development and advocacy. Through its Policy Unit, Traidcraft Exchange seeks to influence government policy and business practice in the North and the South to the benefit of the poor in the developing world.

For more information about Traidcraft – please visit our website www.traidcraft.co.uk or contact us.