Reminder of Code Obligations – Supply Chain Charges and Changes to Commercial Agreements

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About this Document

The Office of the Grocery Sector Code of Conduct (OGSCC) has recently received information and inquiries regarding the introduction by some retailers of new supply chain-related charges and proposed increases to existing charges.

The Office recognizes that retailers may need to introduce or adjust charges in response to changing operational requirements and business costs. The Code does not prohibit such changes. However, retailers must ensure that any new charges or amendments to existing arrangements are introduced and implemented in accordance with the requirements and principles of the Code.

In light of the matters brought to our attention, the Office wishes to remind retailer members of several relevant Code provisions.

Agreements and Changes to Commercial Terms

Sections 1.1 and 1.2 of the Code require Parties to negotiate in Good Faith, conduct business in the spirit of fair and ethical dealing, and negotiate and conclude Agreements by mutual consent.

Section 1.3 provides that Parties may not alter contracts unilaterally. Section 1.4 permits amendments to Agreements, whether prospective or retroactive, where the Agreement provides for such changes or the Parties mutually agree. As set out in the Office's *Guidance on Unilateral Amendments Permitted by Agreement* (May 2026), section 1.4 of the Code contemplates that a Party may make a unilateral amendment where a mutually agreed-to Agreement expressly permits it.

Where a retailer proposes a new charge that is not provided for under an existing Agreement, the Parties must negotiate and agree to the new arrangement, absent a provision in the applicable Agreement permitting a unilateral amendment.

Where an existing Agreement contains provisions permitting unilateral amendments, retailers should ensure that the changes being introduced fall within the authority provided by those

provisions. The exercise of any such authority must remain consistent with the requirements and principles of the Code.

Section 2.5 also makes clear that Agreements cannot be designed to explicitly work around or willfully disregard the provisions of the Code, and that Parties cannot waive their rights or obligations under the Code.

Reasonable Notice, Transparency and Communication

The Code's principles of *Transparency and Certainty* and *Fair Dealing Across the Value Chain* emphasize the importance of clear Agreements, Good Faith, Reasonable Notice, and communications between Parties that provide sufficient detail in an effective format.

These principles are relevant when retailers communicate new charges or changes to existing arrangements.

In particular, communications should provide sufficient information for suppliers to understand the proposed changes and their implications, including, as applicable:

- The nature and scope of the new or revised charges;
- The provisions of the existing Agreement being relied upon to introduce or amend the charges, where applicable;
- The reasons for the changes and the basis upon which the charges or increases have been calculated; and
- The proposed effective date and an appropriate opportunity for suppliers to review, seek clarification and respond.

The Code also recognizes the importance of Reasonable Notice. What constitutes Reasonable Notice depends on the circumstances, including the nature and impact of the proposed change and the time reasonably required for the other Party to assess and respond.

Existing OGSCC Guidance

The Office has previously issued *Guidance on Unilateral Amendments Permitted by Agreement* (May 2026), which addresses the application of sections 1.1, 1.2 and 1.4, including the importance of Reasonable Notice, sufficient detail, transparency, certainty and Good Faith when exercising contractual amendment rights.

Retailers are encouraged to review this existing guidance when considering changes to supply chain charges or other commercial terms.

Closing

The Office is not expressing a view on the appropriateness of any particular supply chain charge or proposed increase. Rather, this notice serves as a reminder that, regardless of the commercial rationale for introducing or adjusting charges, retailers must ensure that their actions are consistent with their Agreements and the requirements of the Code.

We encourage retailer members to review their existing arrangements and communications with suppliers in light of these obligations and to engage constructively with suppliers where questions or concerns arise.

The Office remains available to discuss the application of the Code and assist members in understanding their obligations.

A Broader Consideration: Unilateral Amendment Clauses

The Office is concerned about the reliance on broadly worded provisions in Agreements that purport to permit unilateral changes to any or all aspects of a commercial relationship. While section 1.4 recognizes that Agreements may provide for unilateral amendments, such provisions do not operate independently of the other requirements and principles of the Code.

In particular, the Office questions whether the use of broadly worded unilateral amendment provisions, depending on how they are applied, may be inconsistent with section 2.5 of the Code, particularly where changes impose significant additional costs or obligations on the other Party without meaningful engagement. The Code's Principle of Fair Dealing Across the Value Chain makes clear that all Parties are expected to act in Good Faith and live up to the spirit of fair and ethical dealing. These expectations continue to apply even where an Agreement expressly provides for unilateral amendments.

The Office will continue to monitor the use of such provisions and consider concerns or complaints brought forward regarding their application. It will also consider whether the prevalence and application of broadly worded unilateral amendment provisions warrant further examination, including whether additional clarification or limitations may be