

The Groceries Code Adjudicator

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Overview of Presentation

- The need for an Adjudicator
- What will the Adjudicator do?
- Where are we now?
- Lessons for other countries
- Further information

The Need for an Adjudicator

Overview of UK groceries market



£146 billion market

Supply chain worth
over £70 billion p.a.

4 big retailers:
Tesco, Asda, Sainsburys,
Morrisons
6 mid-size:
Marks & Spencer, Waitrose,
Aldi, Lidl, Co-op, Iceland

Retailers have enormous
buyer power, even against
big suppliers

Tens of thousands
of grocery products

The Competition Commission's findings

- Groceries market is delivering a good deal – low prices and high product variety – for consumers, **but.....**
- Grocery retailers with buyer power passing on excessive risk and unexpected costs to suppliers.
- This can damage investment and innovation in the supply chain and is not in the long term interests of consumers



The Competition Commission's Proposed Remedy

- A stronger Groceries Supply Code of Practice.
- A grocery adjudicator to oversee and enforce the Code.
- To include a 'competition test' in planning decisions on larger grocery stores.
- Action to prevent land agreements restricting entry by competitors.

What will the Adjudicator do?

The Adjudicator will enforce the Groceries Code

- The Code requires large retailers to:
 - Deal fairly and lawfully with their suppliers.
 - Not vary supply agreements retrospectively, except in specific circumstances.
 - Pay suppliers within a reasonable time.
- The Code limits large retailers' power to:
 - Make suppliers change their supply chain procedures.
 - Make suppliers pay marketing costs and compensation for wastage, or to pay compensation for forecasting errors.
 - Make suppliers obtain goods or services from third parties who pay the retailer for that arrangement.
 - Make suppliers pay them for stocking their products, for promotions, or to resolve customer complaints.
 - De-list suppliers.

Adjudicator's proposed functions and powers

- Receive confidential complaints from direct or indirect suppliers.
- Investigate possible breaches of the Groceries Code by large retailers.
- Wide ranging powers to require information during the course of an investigation.
- Remedies:
 - Recommendations to the retailer
 - Require the retailer to publish information
 - Impose a financial penalty (if the Secretary of State adds a power to do so);
- Advise large retailers and suppliers on the Groceries Code.
- Report annually on his or her work and compliance with the code.
- Recommend changes to the Groceries Code.
- Arbitrate disputes between large retailers and their direct suppliers

What will and won't the Adjudicator do?

- **The Adjudicator WILL**

- Address the imbalance of power between large retailers and suppliers.
- Operate in the long term interests of consumers by encouraging innovation and investment by suppliers.
- Be a person who suppliers can bring complaints to in confidence, enabling breaches of the Groceries Code to be identified and addressed.

- **The Adjudicator WON'T**

- Bring down the price of food in supermarkets.
- Set minimum prices that must be paid to suppliers / farmers.
- Address wider social concerns (e.g. animal welfare, sweatshops, etc.)



Where are we now?

Progress on establishing the Adjudicator

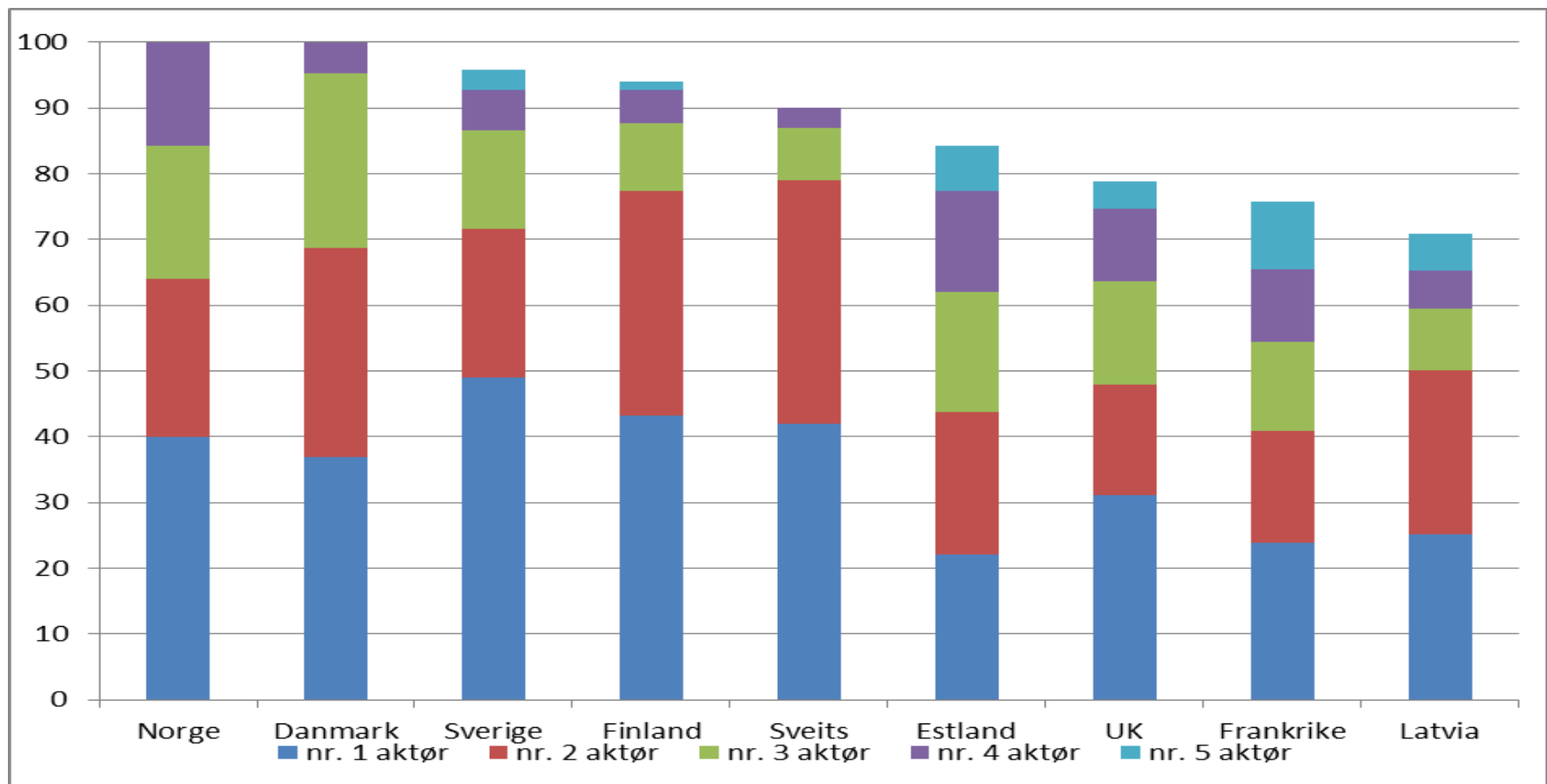
- Draft legislation published in May 2011.
- Parliamentary Pre-Legislative Scrutiny completed in September 2011
- Government committed to introducing the Groceries Code Adjudicator Bill as soon as Parliamentary time allows.
- Adjudicator could be up and running by 2013.



Lessons for other countries

Every market is different

- UK: Largest five retailers have < 80% of market share.
- Norway: Largest four retailers have > 99% of market share.



Expect stakeholder lobbying

- Many misapprehensions
- Some suppliers will want a panacea
- Retailers likely to oppose strongly



Tailor your remedy to fit your market

- Where do the problems in competition lie?
 - Retailer/consumer?
 - Retailer/supplier?
 - Direct/indirect supplier?
- What changes do you want to see?
 - Greater diversity in market?
 - Altered behaviour?
 - Shifts in where risk is held?
- What powers are most important?
 - Information provision and awareness?
 - Changing behaviours?
 - Fining and deterrence?
- **A strong evidence base is crucial.**

More information

- More information can be found on the BIS website:

<http://www.bis.gov.uk/policies/business-law/competition-matters/market-studies/cc-market-investigation-on-the-uk-supply-of-groceries>