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7 May 2010

Mr John Hawkins  
Committee Secretary  
Senate Standing Committee on Economics  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

Email: [economics.sen@aph.gov.au](mailto:economics.sen@aph.gov.au)

Dear Mr Hawkins,

## **Trade Practices Amendment (Australian Consumer law) Bill (No.2) 2010**

During our evidence to the Inquiry we discussed the UK Competition Commission's Groceries (Supply Chain Practices) Market Investigation Order 2009 which introduces a Code of Practice aimed at addressing anti-competitive practices in the industry.

Please find a copy attached.

Note that, among other matters, it controls the product delisting process.

As evidence of the fact that delisting of product is abused in Australia please note media reports of Coles' activity in 2009<sup>1</sup> which mentions the use of threats of delisting (and actual delisting) by Coles as leverage on suppliers to give Coles an additional 4% on invoices in trading terms which were being pushed 'closer to 20%'.

Changes in terms were being sought without benefit to suppliers.

We also note that during the Global Financial Crisis (GFC) both major retailers sought to extend the time they could take to pay their bills. Typically, the major chains have 60 day payment terms, which are, in practice, 75/80 days (according to Woolworths documentation). This means goods supplied are actually sold well before they are

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<sup>1</sup> Coles turns screw on suppliers, The Age, March 3, 2009

paid for – i.e. the suppliers are funding the chains' floor stock and are forced to borrow additional funds in difficult markets.

Chains are prepared to pay in 30 days (actually 45/50 days), on receipt of a further 3.75% discount.

The UK Code tries to address the power difference between smaller suppliers and the major chains.

The ability of the chains to extract better terms from suppliers affects smaller independent retailers who are not in a position to obtain matching deals. They are anti-competitive.

We believe that the introduction of a UK type Grocery Code in Australia would help address the power balance between large retailers and suppliers and thereby help level the playing field.

Please contact us should you require further details.

Yours sincerely

Ken Henrick  
**Chief Executive Officer**