



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

Thursday 5 February 2015



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**RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE**  
**6<sup>th</sup> Meeting 2015, Session 4**

**CONVENER**

\*Rob Gibson (Caithness, Sutherland and Ross) (SNP)

**DEPUTY CONVENER**

\*Graeme Dey (Angus South) (SNP)

**COMMITTEE MEMBERS**

\*Claudia Beamish (South Scotland) (Lab)

\*Sarah Boyack (Lothian) (Lab)

\*Alex Fergusson (Galloway and West Dumfries) (Con)

\*Jim Hume (South Scotland) (LD)

\*Angus MacDonald (Falkirk East) (SNP)

\*Michael Russell (Argyll and Bute) (SNP)

Dave Thompson (Skye, Lochaber and Badenoch) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

James Bailey (Sainsbury's)

James Courtenay (Groceries Code Adjudicator)

Tom Hind (Tesco)

Calum Kirk (The Co-operative Food)

Steve McLean (Marks and Spencer)

Björn Nierhaus (Lidl)

John Richardson (Aldi)

Duncan Sinclair (Waitrose)

Christine Tacon CBE (Groceries Code Adjudicator)

**CLERK TO THE COMMITTEE**

Lynn Tullis

**LOCATION**

The Robert Burns Room (CR1)



## Scottish Parliament

### Rural Affairs, Climate Change and Environment Committee

Thursday 5 February 2015

*[The Convener opened the meeting at 09:33]*

### Decision on Taking Business in Private

**The Convener (Rob Gibson):** Good morning, and welcome to the sixth meeting in 2015 of the Rural Affairs, Climate Change and Environment Committee. I remind everyone present to switch off mobile phones, as they may affect the broadcasting system. Some committee members might consult tablets during the meeting, because we provide meeting papers in digital format.

We have received apologies from Dave Thompson, and we expect Angus MacDonald to arrive slightly late.

Agenda item 1 is a decision on taking business in private. Do members agree to consider in private, at future meetings, the committee's draft letter to the Scottish Government on our dairy inquiry?

**Members** *indicated agreement.*

## Dairy Industry

09:34

**The Convener:** The second agenda item is evidence on the dairy industry from stakeholders. We have two panels this morning, and will utilise videoconferencing technology for both. I remind members that, because of the technical aspects of the video link, a delay will occur between members finishing their questions and witnesses hearing them and responding. Equally, there will be a delay the other way. Because we are using a video link, it is important that no one tries to speak over anyone else. Therefore, members should speak only if I call them to do so and should not try to interrupt a colleague or witness, as that would affect our ability to hear the answers.

I refer members to the papers, which have been circulated.

I introduce the members of the first panel. Christine Tacon, CBE, is the Groceries Code Adjudicator.

**Christine Tacon CBE (Groceries Code Adjudicator):** Good morning.

**The Convener:** Thank you for giving us evidence via video link. I also introduce James Courtenay, the Groceries Code Adjudicator's investigations manager.

**James Courtenay (Groceries Code Adjudicator):** Good morning.

**The Convener:** We will now hear from the panel members about their role.

My first question is for Christine Tacon. You have not conducted any investigations so far, although you have just embarked on one. We are looking at dairy products. Are they part of your current interest?

**Christine Tacon:** The investigation that I launched today is into Tesco. I have acted because I have reasonable suspicion that Tesco has breached the groceries supply code of practice in the areas of delaying payments to its suppliers and asking for payments for shelf positioning. I will explain that a little. The code only governs the relationships between direct suppliers and retailers. Delays in payment generally occur when the supplier has given the retailer the goods and the retailer pays for them but makes deductions from the invoice for various reasons. The issue that I am investigating is deductions that were not agreed by the supplier—for example, deductions for promotions; duplicate deductions; or even deductions for which there is no reason at all. Unless any of the direct suppliers concerned are dairy suppliers—and there are very few dairy

farmers that supply retailers directly—they would not be covered by the investigation.

**The Convener:** In Scotland, there are some dairy suppliers who supply directly. They are in a charmed pool of farmers, but individual ones may well be involved. If that is the case, would your investigation cover dairy products?

**Christine Tacon:** Yes, it definitely would cover dairy products—anything for which the supplier directly invoices the retailer would be covered. Today, I issued a call for evidence. There is about an eight-week period for people to submit evidence to me on the areas on which I have called for evidence, but they can also let me know whether any other retailers have carried out the same practices, in which case I may end up having to extend my investigation.

**The Convener:** We are very pleased to hear that. We will be taking evidence from other supermarkets—we have already heard from companies other than Tesco about the matter in relation to our dairy produce. We expect that there might well be a case for you to open up a much wider investigation.

**Christine Tacon:** As I say, the investigation is just on the two areas of delays in payment and charging for shelf positioning. I must emphasise that the investigation has nothing to do with price negotiations, which I know is an issue that the committee wants to address. I do not have any powers in relation to whether the price that is paid for a product is fair; I get involved if there has been a breach of the agreed contract.

**The Convener:** You have been the adjudicator for about 18 months, and it has taken a long time to agree the penalties that some of us believe are important in giving your role clout. Do you expect to be able to use those powers in order to make the process more transparent?

**Christine Tacon:** When I came into office, I had to write a recommendation as to what I considered the maximum level of penalty should be, and it is only when that is agreed by Parliament that I will have the power to fine.

As you probably know, the statutory instrument was laid recently and the Government has gone ahead with my recommendation, which is that the maximum penalty should be 1 per cent of the retailer's United Kingdom turnover. That can be a large sum of money; for the largest retailers, it is hundreds of millions of pounds.

The investigation that I have launched today looks only at breaches from when I started up to today, but I will not have the power to fine because the statutory instrument has not gone through yet. I have other sanctions, and not having the power to fine has not stopped me working with the

retailers, having quarterly meetings with them and raising the issues that I hear about all the time.

I also hear from suppliers that some practices are being improved, so I have been making progress. Everyone knows that I am going to get that penalty; it was important to get that power.

**The Convener:** The potential for your inquiry to take some time means that it might overlap with the time that it takes for the statutory instrument to go through.

**Christine Tacon:** Unfortunately, with regard to penalties, any breach would need to have occurred after the penalty order had been laid. I can only take evidence of breaches that occurred from when I started up to today.

**The Convener:** What a pity.

My colleague, Jim Hume, is next.

**Jim Hume (South Scotland) (LD):** I thank Christine Tacon for coming along. Before I go on to ask my main question, it would be interesting to know what sanctions the adjudicator can use if there have been breaches.

**Christine Tacon:** Three sanctions were laid out in the Groceries Code Adjudicator Act 2013, one of which relates to financial penalties; that is the ultimate sanction.

If I establish that the code has been breached—clearly I have to do that first—I can make legally binding recommendations to the retailers that I have investigated. Those recommendations are likely to be to do with their processes. If I look at delays in payments, I might well look at internal processes. Having done that, I can then issue guidance for the rest of the retailers. Therefore, I hope that what I learn from one retailer will spread to others.

The next sanction is naming and shaming—of course, it is not really called that—which requires the retailer to take out national advertising to apologise for what they have done. The retailers argue strongly that their reputation is the most important thing to them and that I do not need financial penalties because they think that having to apologise is a strong enough sanction. I will be able to use both sanctions—making recommendations and naming and shaming—in the current investigation.

**Jim Hume:** That is great, and I am glad that the UK Government has taken up your recommendation of the 1 per cent of turnover penalty.

You said that you have the power to look into the dairy sector if there have been breaches of contract. Have any such issues arisen for suppliers or farmers? If not, do you have some examples of the issues that have been raised to

date, in addition to the one that you have already mentioned?

**Christine Tacon:** Most of what I have heard about the dairy sector has come from the farming community and its representatives and trade associations, and relates to pricing. However, that is not an area that I can get involved with for two reasons: first, it is about price; and, secondly, in the main, those groups do not directly supply the retailers. I have not heard about any issues to do with drop and drive, which is one of the top five issues that I have been working on for 18 months. In drop and drive, people in the chilled chain deliver what they believe to be 100,000 units, for example, to a retailer's depot but get no proof of delivery. They send an invoice for 100,000 units and get back payment for 100,000, less 20,000 that the retailer said were not on the lorry. I have been calling that drop and drive, and because there is no proof of delivery it cannot be challenged. That comes under the heading of delays in payment that I am now investigating.

**Jim Hume:** That sounds quite shocking—if, of course, it is true. I had a couple of questions, but I think that we have covered them.

**The Convener:** I will bring in my colleague Graeme Dey to ask a supplementary question.

09:45

**Graeme Dey (Angus South) (SNP):** Good morning. Is there the potential for the investigation that you have launched today—albeit that it is based on allegations as nothing has been proven yet—to empower suppliers to come to you with complaints about other supermarkets or retailers? Might it be the start of a process that broadens out beyond simply one retailer?

**Christine Tacon:** First, I am not launching an investigation that is based on allegations; I am launching an investigation that is based on reasonable suspicion. When Tesco had its profit misstatement, a report by Deloitte was commissioned and I asked Deloitte to look for breaches of the code in its investigation. Deloitte did that, and there were some indications in its report that made me ask Tesco to do a further investigation. Tesco did that—it fully looked into the matter and reported back to me. That report, plus what I have been hearing from trade associations and direct suppliers, is what informed my decision to investigate.

I am sorry to have to spell that out, but I must have reasonable suspicion to launch an investigation. I need to give a really strong message to direct suppliers that, for future investigations, I need more than just being told something over a dinner. I need information and

evidence to trigger investigations. However, when I am in investigation mode, which I now am, I can require the retailer involved, which is Tesco in this case, to provide any information that I want. Such information will indicate to me which suppliers I need information from, and I can legally require that information, too, which might be in the form of e-mails, contracts or even witness statements.

When I open an investigation, I issue a call for evidence, so anybody can now come to me with evidence. However, I will legally require information to support the investigation. If either of those processes implicates other retailers and I have reasonable suspicion, the investigation will be expanded. I hope that that answers your question.

I point out that I have a legal duty to protect the anonymity of all suppliers involved, so any evidence that I legally require will never get out to the retailer.

**Graeme Dey:** Okay. Thank you.

**The Convener:** I will bring in my colleague Mike Russell.

**Michael Russell (Argyll and Bute) (SNP):** I want to pick up on something that you just said, Ms Tacon. You are now inviting people to come to you with information regarding these matters, and you seemed to indicate that you would welcome information from direct suppliers—for our purposes, they would be farmers who directly supply supermarkets—if they have allegations of similar actions involving other supermarkets. Did you say that?

**Christine Tacon:** I did, yes.

**Michael Russell:** Okay. The investigation that you are launching into Tesco has the potential to become an investigation into other supermarkets, if direct suppliers or others come to you with further information.

**Christine Tacon:** Yes, in relation to the two areas on which I am calling for information, which include delayed payments. I would need more than one or two people to give me information, but I encourage suppliers to talk to me.

**Michael Russell:** I am sorry to labour the point, but I want to be absolutely clear. If direct suppliers to supermarkets—for our purposes, they would be farmers who directly supply supermarkets—have allegations in the two areas of interest to you, they can take them to you anonymously.

**Christine Tacon:** Yes. Direct suppliers can come to me at any time to talk about things, but even more so now.

**Michael Russell:** Thank you.

**The Convener:** Alex Fergusson has a somewhat similar point.

**Alex Fergusson (Galloway and West Dumfries) (Con):** Good morning, Ms Tacon, and thank you for joining us. I had an exactly similar point, but it has just been neatly taken from me. However, I wonder whether I could just explore a slightly different aspect of the relationship between direct milk suppliers and the supermarkets.

In return for direct supply contracts, which tend to give producers a better rate than the normal market rate, the producers are expected to meet certain standards of animal welfare, for instance, and different environmental standards; and in some cases they must share data on farm performance as part of the contract. I simply want to know whether those aspects of a contract would come under your remit as the adjudicator.

**Christine Tacon:** I need to clarify that being a direct supplier to a retailer means that you are the person that invoices the retailer, not that you are in the retailer's milk pool. If a supplier supplies to Müller Wiseman, Müller Wiseman is the direct supplier. That is just to clarify, so that I am not misleading you into thinking that I am covering any farmer who thinks that they are a direct supplier. If they are not doing the invoicing themselves, they are not covered by my code.

If there were farmers who were doing exactly that, the issue would be their contract negotiation. I would be interested if they felt that they had negotiated something with the retailer and the retailer varied those terms without giving proper notice or in an unfair way. That is the sort of thing that I generally ask people to tell me about at all times.

**Alex Fergusson:** That is exactly—

**Christine Tacon:** I am sorry; I wanted to make another point. There was a misunderstanding in the Environment, Food and Rural Affairs Committee that I could not have issues raised with me by indirect suppliers. I can take issues from everybody, including trade associations and indirect suppliers. Anybody that wants to can give me information if they think that there is a breach in the area that I cover. An indirect supplier can say, "I think that X, Y or Z retailer is putting pressure on my processor and that is coming down to me, and I have reason to believe that the code has been broken."

**Alex Fergusson:** That is a very useful clarification. Thank you very much indeed.

**Sarah Boyack (Lothian) (Lab):** Good morning. We have been made aware through adverts in newspapers of the prices that farmers get for milk sold in different supermarkets compared with the cost of production. One advert said that the cost of

production for a 4 pint carton of milk was 68p, and that farmers would get more than that for milk sold in three supermarkets—Marks and Spencer, Tesco and Sainsbury's—but would get less than that for milk sold in Morrisons, Asda, Lidl, Aldi and Iceland. The details of the amounts that farmers would receive for milk sold by Waitrose were not available.

We are interested in whether you are aware of evidence that some supermarkets are paying suppliers below the cost of production for liquid milk. In that circumstance, what recourse would suppliers have to address that issue and raise it with you?

**Christine Tacon:** I have seen the same adverts and I follow the same stories, because it is an area of interest to me, having come from the farming community myself in my last job.

It is not an area that I can get involved in. I have no remit on price. The only way that I can get involved is if the milk processor that is supplying says that its contract has been varied without notice or that the code has been breached in some way. I have no remit in that area.

**Sarah Boyack:** What would be the way for farmers or suppliers to raise that issue—just through adverts?

**Christine Tacon:** It is not with me. I know that they are doing a very good publicity campaign on their issue, but it is not something that I can get involved with, I am afraid.

**Sarah Boyack:** Is it just for rival supermarkets to highlight the issue to members of the public, so that when we buy our milk we can take a decision that is based on price and quality?

**Christine Tacon:** I do not think that I should be commenting on that. I get my milk delivered to the door and pay a proper price for it, and I think that more people should try to do that. However, that is nothing to do with my role, I am afraid.

**Alex Fergusson:** Hear, hear!

**Sarah Boyack:** Thanks. It is helpful to us to raise those issues, because I think that people do not have any sense of how it works. Some of us have been very surprised to go into supermarkets or even corner shops and see the incredibly low price of milk and compare it with the cost of production that we see through the coverage in newspapers, even with incredibly efficient farms.

**The Convener:** Mike Russell has a substantive question.

**Michael Russell:** It is about information rather than complaint. I suspect that your direct remit does not cover this but, given your background and the work that you did with the Co-op, you will understand the issue, and it would be helpful for



you to comment on it, if you can. Really, the issue is the transparency of the information that is available. DairyCo used to publish data on processor and retailer margins for liquid milk, but its website now says that it cannot do so because of consolidation within the dairy sector and because there is not enough reliable data.

Hypothetically, your decisions on contractual relationships will be to some extent based on the data that is available to you. Is there a lack of transparency in the data in the dairy sector, or in any of the sectors that you deal with?

**Christine Tacon:** You have caught me out there. I cannot comment on that, as I really do not know. I am out of date in terms of dairy—I think that I was last in dairy 12 years ago. I am sorry, but that issue is not relevant to my role and I do not feel that I can comment on it, as I just do not know enough.

**Michael Russell:** Let me put the question more widely to see if you have a view on this. The availability of transparent data on costs and prices must influence the decisions that you reach on whether supermarkets are behaving correctly and according to the code. Where do you get that data?

**Christine Tacon:** The role of my office is to respond to issues that are raised with me by the industry and direct suppliers. Therefore, I do not proactively go out and do things—I respond to issues that are raised, so I do not study data to look for evidence in relation to the code. I respond to people telling me that there are problems.

**Michael Russell:** So you use the data that you receive from supermarkets and others to make decisions, but you do not proactively seek other data to see whether—to be blunt—they are telling you the truth.

**Christine Tacon:** On an on-going basis, suppliers talk to me about things that are happening. I will then try to push for evidence, but generally I am looking for invoices or paper trails. That is nothing to do with the transparency of pricing data. For example, on the delays in payments, I have asked for copies of invoices where I can see deductions with no accompanying paperwork, or duplicate invoices. The data that I look for is in the particular areas in which I have been told anecdotally by enough people that there is an issue and, therefore, I have asked them to give me evidence. Only when I have that can I move to the next stage of investigation. I do not look at market transparency data or that sort of thing in looking for breaches of the code.

**Claudia Beamish (South Scotland) (Lab):** I want to look to the future. Would it be possible for your remit to be extended? At Prime Minister's questions on 21 January this year, Glyn Davies

MP asked the Prime Minister whether, in the light of the difficulties in the dairy industry,

"the powers of the Groceries Code Adjudicator should be ... strengthened".

In his answer, the Prime Minister said:

"it is time to look at whether"

the adjudicator's

"remit can be extended to make sure it looks at more of this ... industry."—[*Official Report, House of Commons*, 21 January 2015; Vol 591, c 216-7.]

Will you express a view on that?

**Christine Tacon:** I do not think that it is appropriate for me to express a view on that. My job is clearly defined in the 2013 act, and the code has been written by the Competition and Markets Authority. If I come across areas that are not covered by the code and that I think should be, I have the flexibility to make recommendations that the code should be amended. That is the only bit of flex that I have in relation to my power. However, the authority has made it clear to me that it may have to do its own investigation to extend the code and it has therefore asked me to try to work within the code as it stands. In any case, with many aspects of the code, for example the investigation that I am carrying out now into no delays in payments, a lot of things can be put underneath that. My understanding is that most of the issues for the dairy farmers are about the price that they are paid and not about breach of contract so, even if the remit were extended, with the code as it stands, I am not sure that it would address the issues that the dairy farmers have.

**Claudia Beamish:** I was not previously aware that you can make such recommendations, which is interesting. At first sight, that seems quite a strong power. In view of the difficulties that are being experienced through the supply chain, could you consider making a recommendation that you should be able to look at fair pricing?

**Christine Tacon:** I am quite convinced that I would not be able to make a recommendation on that. If I am looking at no delays in payment, I might look at the internal processes that cause such delays and I might say to a retailer that it should no longer allow buyers to make particular changes, because that causes delays in payment. Any recommendation that I make will be specifically to address the issue that I have investigated. For me to make a recommendation about looking at fair pricing would be too wide a stretch of what I am allowed to do.

10:00

**Claudia Beamish:** Thank you. Could your remit be extended in any way in relation to the whole supply chain to give a hearing to suppliers and

producers in the dairy industry, which we are looking at in our investigation?

**Christine Tacon:** This is not in my area, but there is a European Union voluntary code of practice. We in the UK have been one of the first countries in the world to do something about the issue that I am working on. Just yesterday, I had a delegation of people from southern Ireland who wanted to learn from what we are doing in an effort to do their regulation better. These are global issues.

Two weeks ago, I was at a workshop in Brussels, at which the EU was considering whether it should regulate. The EU voluntary code is drawn up along the lines of ours, and it does go the whole way down the supply chain. However, people have to sign up to it. The EU has nothing like the sanctions that we have in this area, but there are trade associations that will get involved. Given that the EU's code mirrors our code, it is about breach of contract rather than the producer getting a fair price. I do not hear the EU's code talked about very much in the UK but, as it is an EU initiative, some of our retailers—I do not know about the producers—will have signed up to it.

**Jim Hume:** I want to look at that issue in a bit more depth. I appreciate that you cannot consider contracts in which the prices might not be fair but which the two parties have agreed. That is fine.

As the Groceries Code Adjudicator, do you think that it would be useful to have powers in relation to what happens throughout the supply chain? Yesterday, we were told by some supermarkets that the prices are set not by them but by the processors—they are the ones that have the contracts with the farmers and producers. Would it be useful for you to have powers to investigate right across the supply chain, rather than powers to investigate just those who supply the supermarkets directly?

**Christine Tacon:** I do not think that that is for me to decide. At the moment, I have a small team. My whole office consists of five people in addition to me, and I am part-time, and it is totally funded by the retailers—a levy on the retailers pays for our office. I assume that any extension to our office and how it operates would require primary legislation, so it would not be an easy move from the present set-up. The Groceries Code Adjudicator has been set up to regulate the 10 retailers with turnover of more than £1 billion. It looks as if a few more retailers are coming up to that level, so I might be regulating more than 10 retailers in future. That is all that my role involves.

**Alex Fergusson:** It was put to us in evidence yesterday that when things get tough in a certain sector, there is a temptation to head towards the Groceries Code Adjudicator, but that it would be

totally unrealistic to expect the adjudicator to sort out the problems of an individual dairy farmer. Is that a position that you recognise?

**Christine Tacon:** If that dairy farmer was a direct supplier of a retailer, I would be interested in hearing from them.

I have tried to tell people that if they are the only person who raises an issue with me, that makes it extremely difficult for me to talk to the retailer, because I have a duty to protect their anonymity. If people come to me with a problem because they think that there has been a breach of the code, I will frequently refer them to the code compliance officer that, by law, each retailer must have. Code compliance officers are not allowed to be in the buying chain of command. In general, they work in legal, in audit or they are the company secretary. They know that the code is law. If a supplier goes to them with an issue, they tend to resolve it. Indeed, they have to report to me annually on everything that has come to them. If they cannot resolve an issue, it comes to me and I arbitrate. When I arbitrate, I can award compensation, so most of the retailers desperately try to sort things out before they get to me, although I have two arbitrations running at the moment.

I am always there for a direct supplier; they do not have to approach me as part of an investigation. However, if they want to get redress and get a matter sorted, they will have to go to the code compliance officer. The alternative is that I get enough information to launch an investigation but, in investigation mode, even if I am at the stage where I can impose penalties, no compensation is involved; the penalties go to the Treasury.

**Alex Fergusson:** Thank you very much for that. Have you ever received a complaint from a direct dairy product supplier?

**Christine Tacon:** I have received complaints indirectly on what I referred to as drop and drive, in which deductions were made from invoices because the supplier was not getting paid for everything that they thought they had put on the lorry.

Complaints also come through trade associations, such as the Provision Trade Federation. I encourage trade associations to engage with their members and bring issues to me because, by the time an association mentions an issue to me, not only do the people involved have the protection of anonymity—there is a huge fear among people that it will somehow get out—but I know that the issue is significant because it involves more than one member of the association.

**Alex Fergusson:** Thank you very much indeed.

**The Convener:** Thank you very much for your answers, Ms Tacon. I go back to a point that we raised at the beginning about your potential to raise investigations on your own initiative. Will you be clear about that for us?

**Christine Tacon:** I have to have reasonable suspicion to launch an investigation. If I do not have that, the retailers can challenge me and take me to judicial review, so I am obviously careful to make sure that that does not happen.

That is why I have been working collaboratively with retailers over the past 18 months on the areas in which I have not had enough evidence to give me what I would call reasonable suspicion. I have had my top five issues on which we have been looking for progress and the retailers report back to me every quarter on their progress against those issues. One of them has now been solved, so I have added a new one to my top five and the retailers that I have been told have issues in that area—they do not all—are making progress on it.

**The Convener:** What are the top five?

**Christine Tacon:** The one that I solved is what I call forensic auditing, which is when the retailers use no-win, no-fee auditors to go back six years—they were using very sophisticated software to go through emails going back that far—looking for evidence that the supplier might owe them some money and then whack them with an invoice for it. That is allowed under contract law. In many cases, the retailers threatened to deduct the money or actually deducted it from payments that were due. This relates to the no delay in payments issue that I am currently investigating.

I had so many complaints about that issue that I said to the retailers that they surely should have systems that are able to sort those matters in the current financial year plus two. Eight out of 10 of them have agreed to do that, so I have now taken that off my top five issues, but it was a main one on which I had major progress.

Drop and drive, which I explained earlier, is another one.

Forecasting is another. Many retailers issue penalties for short deliveries and I have challenged them on what they forecast. We all know that the weather changes but, if the retailers forecast 4,000 units and then ask for 6,000 when the order comes through, and if the suppliers give them 5,900, they cannot fine the suppliers for the 100 that they did not manage to pull off. All the retailers now have a big piece of homework from me on the accuracy of their forecasts. Interestingly, I hear from some retailers that they do not even have systems that talk to each other to compare their forecasts with their orders.

Another issue was demand for lump sums, which I hear about very frequently. Some of them are swept up in end-of-year margin maintenance agreements but, sometimes, it is just a case of the retailers having a black hole that they need to fill and needing some money. That is a significant issue.

Another issue that I think people found more annoying than hugely prohibitive was being overcharged for artwork or photography. The retailers were telling suppliers who they had to use, particularly for packaging of own-label fresh produce. There was a preferred supplier list of one, who would charge the supplier more than they thought they could get the artwork for externally.

Having dropped the forensics off my top five, I have now introduced the cost of customer complaints. If somebody takes back a carton of milk and says, "This milk was off," the retailer will generally give them their money back and another carton of milk, but they will then trace it through to the supplier and probably charge them £45 for the complaint. Knowing what they received for the milk, we can see that that is a lot. They all have another piece of homework to find out for me what they are charging for customer complaints.

Those are the issues that I have been working on for the past 18 months. I have not needed investigations because I have been getting progress on them, and I have not needed the penalties, but those are parts of my armoury when I need them.

**The Convener:** Thank you very much for your evidence. Some of us are long enough in the tooth to have been around at the time when we gave evidence to the Competition Commission, long before you took up your post, and it is a major insight for us to hear about the work that you are doing. *[Interruption.]*

There is a lot of blue-light activity behind you; we hope that it is nothing to do with the Groceries Code Adjudicator. Thank you.

**Christine Tacon:** Thank you.

**The Convener:** I suspend the meeting for a few moments to allow us to change over the panels.

10:11

*Meeting suspended.*

10:16

*On resuming—*

**The Convener:** We resume our meeting. I am Rob Gibson, convener of the Rural Affairs, Climate Change and Environment Committee.

We welcome our panel: Duncan Sinclair, the agriculture manager of Waitrose, who is on the videolink; Steve McLean, head of agriculture and fisheries for Marks and Spencer; Calum Kirk, the category trading manager for the Co-operative Food; Tom Hind, agriculture director of Tesco; John Richardson, group buying director for Aldi; James Bailey, the business unit director for packaged goods at Sainsbury's; and Björn Nierhaus, the senior buying director for Lidl. Good morning to you all, gentlemen.

We must remember that we will have to wait for a while for Duncan Sinclair's videolink replies. I know that many of you may wish to answer the questions, but we have limited time so we need short answers, if at all possible.

First, we are particularly interested in what farm-gate price you pay for milk and whether you pay that price to all farmers or just to those in a select group.

**Steve McLean (Marks and Spencer):** At Marks and Spencer, we have a dedicated, segregated pool of farmers. We work through a national pool structure and all the milk in our Scottish stores, including the retail milk that is sold in cartons, the milk that we sell in our cafes and the milk that we use in hospitality, comes from a dedicated, segregated pool of producers. The price that we currently pay is 34.256p per litre, and that price is derived through an independent payment model that is reviewed every six months with the producers.

**Calum Kirk (The Co-operative Food):** We have a dedicated farming group, which is based on two independent cost of production models and one base market model. We currently pay 29.84p per litre, which is a premium.

**Tom Hind (Tesco):** Tesco has a dedicated, segregated relationship with more than 600 dairy farmers across Great Britain, who supply all the milk for our fresh milk, cream and mature and extra mature cheddar. That relationship has been in place since 2007. We currently pay a milk price of around 32p a litre. The milk price is calculated on the basis of the costs of production of the group of producers who supply milk to Tesco, and it is reviewed every six months.

**John Richardson (Aldi):** We buy all our milk from Graham's Family Dairy, who you spoke to last week. It pays its farmers 26.5p a litre.

**James Bailey (Sainsbury's):** We have the Sainsbury's dairy development group, with 310 farmers, 32 of whom are in Scotland. We pay 31.6p a litre. That is paid to every farmer, regardless of the volume that they produce.

**Björn Nierhaus (Lidl):** I buy all my milk through Graham's, the family business in Scotland. I think that it currently pays 26.5p a litre, value price.

**Duncan Sinclair (Waitrose):** At Waitrose, we have had a dedicated segregated group in place for 15 years. We meet regularly with a steering group, with the 100-odd dairy farmers we work with. At the moment, we pay 33.1p a litre for our conventional milk.

**The Convener:** Thank you. That gives us an idea of the spread.

Price volatility is a problem for dairy farmers. Can supermarkets say what their farm-gate prices have been over the past few years? How much volatility has there been in your own farm-gate prices?

**James Bailey:** We believe that, since we introduced our cost of production model in 2012, there has been half the volatility in our price when compared with the United Kingdom spot price. Anecdotally, we would suggest that we have halved the volatility for our pool of farmers.

**The Convener:** Is the spot price the figure against which the volatility is measured?

**James Bailey:** I think that it is the figure for the volatility that you are referring to in your inquiry.

**The Convener:** Yes, it is. Are there any other comments?

**Steve McLean:** In the Scottish context, because our price is linked to cost of production, we have removed the volatility through market changes. However, if I look at the average market price since Marks and Spencer established its milk pool—we were the first retailer to do that—we have paid our producers in Scotland more than £2 million above the average market price. That is a fairly significant indication of the extent to which we have removed the volatility from the marketplace.

**Tom Hind:** Again, given that we review our milk price every six months and it is based on the costs of production, we have also helped, over the past few years, to remove some of the volatility that is associated with market pricing and to give our dairy farmers a greater sense of predictability and certainty that allows them to make investments. Over that period of time, the investment that we would have made relative to the Department for Environment, Food and Rural Affairs farm-gate average milk prices is more than £150 million—I do not have the exact figure to hand. The important thing is that, through that relationship and the approach that we take, we have enabled some of the volatility to be removed, but it has not been completely eliminated.

**Calum Kirk:** Similarly, the Co-operative Group has removed a lot of the volatility by having an index based on two cost of production methodologies. Within a Scottish farming base of 34 Scottish farmers, our current rates add more

than £1.3 million over and above the market price. Also of note is the fact that when the farm-gate price has been most under pressure—from, say, 2012—the Co-operative Group has increased the premium paid to farmers in more volatile times. I can share the evidence for that with the committee after the meeting.

**Michael Russell:** Good morning, gentlemen. Yesterday, two other supermarkets from whom we took evidence were dismissive of their influence on milk prices and indicated, essentially, that it was all to do with a global phenomenon that they could not influence. You are telling us something different. You are indicating that, although there is volatility, you are able to smooth out that volatility for the people who supply directly to you. Would that be a correct interpretation? There is some volatility, but you have smoothed it out for the people with whom you have a long-term relationship.

**James Bailey:** That is probably an accurate description. Retailers can make a choice about how to pay their farmers and what to pay their farmers. Several people around this table made the choice to use a cost of production model. There are different models but the idea is similar: it is about taking control of the price away from the processors, which means that you can insert some stability in pricing.

**Duncan Sinclair:** On that very point, our model is similar to others in the sense that we have a discussion about cost of production and the proportion of money that is needed for investment. As our business is growing and continues to grow, we need to make sure that we have security of supply as we invest in new retail space, new capacity and different mediums of getting to our customers.

Milk is one of the key products; that is why, in our discussions with the farmers, it is absolutely essential that we are paying them a fair price so that they have the confidence to make that investment.

**Steve McLean:** If we go back to why Marks and Spencer established the first aligned retail milk pool, we see that it was at the request of producers at that time, who were seeing increasing volatility and wanted to work with us to find a model that reduced that volatility. We are certainly very proud of what we have achieved since then. I know from the feedback that we get from producers that it has enabled them to have the confidence to invest in their businesses and to innovate and to produce products that are different from the rest of the high street, so it is a model that works very well for us.

**The Convener:** We are very interested in transparency for the farmers and for the customers in the milk supply chain. Is that important to you as retailers? How do you ensure transparency, if you have any in that area? Much of what you are telling us today is news to us.

**Tom Hind:** In relation to our sustainable dairy group, we are very transparent in the sense that our relationship with our dairy farmers is communicated through our website to our customers, so there is information there about how we work with our dairy farmers.

We recently posted a blog from the chairman of the Tesco sustainable dairy group committee, a Scottish dairy farmer called James Stephen, in which he explains his relationship with our business. Our customers are keen to understand that information as well. More broadly, from a farming point of view, what matters is that farmers understand how the price that they will receive is going to be calculated and that the process that they undergo to receive it is transparent as well.

**The Convener:** So do customers get to see that website? Is it widely advertised?

**Tom Hind:** It is publicly available and we can send details to the committee after the meeting.

**The Convener:** That is interesting.

**Calum Kirk:** Transparency is important. We believe in fair value from farm to fridge. Similarly to my colleague, we remain committed to and proud of the role that the Co-operative Group plays in developing a long-term, sustainable Scottish dairy agriculture. To that effect, we produce a series of commitments around our responsibilities and obligations to that very point—I can leave a copy with you. We feel that it is fundamentally important to have high levels of visibility and high levels of end customer awareness.

**Steve McLean:** Again—to a degree in common with the other retailers in the room—we genuinely believe in transparent relationships. Transparency is part of our plan A commitments; it is part of our commitment to fair partnership. We have a model that we run monthly, continually looking at the cost of production. That model is communicated with all the farmers in our dairy pool.

As I have said before, we change the price every six months, based on those indices, and the farmers know exactly what is coming. More importantly, beside that we have a tripartite arrangement between us, our processor and farmer reps, in which we sit down regularly—at least once a month. We go through a number of things; the price of the milk is one of them, but there is also the opportunity to innovate and move forward.

**James Bailey:** I would concur. Transparency is a very important part of this conversation. We take it seriously enough—the convener referred to our advert a couple of weeks ago in which we published our own and everyone else's milk price, which is one way of being transparent. It is about having informed customers, and informed customers can make informed choices.

My only supplementary point would be that I would include, in that transparency, other buyers of milk. By some estimates, around a fifth of all liquid milk bought in Scotland goes through food processors and is purchased by the public sector. I would extend that transparency suggestion to all sectors that buy milk.

10:30

**Duncan Sinclair:** The way that our system operates is that we work with the farmers. Because we have that dialogue directly with the farmers, we set the price in conjunction with them and not with our processor. We regularly meet the steering group and we have an operational meeting every month in which we review some of these aspects.

As others have said, it is vitally important to be able to communicate that to our customer base. Over the past few weeks, in our internal magazine, "Waitrose Weekend", we have published articles explaining what we are doing to support our dairy farmers. There will be another article out this week. We can send copies of that to the committee.

**The Convener:** That would be very helpful.

**Alex Fergusson:** I apologise for being a little late to this part of the meeting. I am afraid that I had no choice in the matter.

A number of you have referred to the fact that you have a group of dairy producers that supply directly to you with their own contracts. What I am keen to find out is what percentage of liquid milk that you sell comes from that group of dedicated farmers and what percentage comes from other routes. When I came in, you were talking about smoothing out the volatility of prices. To what extent does that refer purely to your direct group of suppliers rather than the others who are trying to compete in this currently oversupplied market?

To sum up, what percentage of your liquid product comes from your direct suppliers? Do your smoothing-out initiatives apply only to them?

**Steve McLean:** That is a really easy answer for me—it is 100 per cent.

**Tom Hind:** It is an easy answer for us as well, in the sense that all of our own label fresh milk, with the exception of organic, is bought from the

Tesco sustainable dairy group and paid at the cost of production price.

**James Bailey:** It is a pretty similar answer for us, too: 97 per cent of our fresh liquid milk comes from the pool. It is 97 per cent because we cannot cover the seasonal ups and downs of our demand; if we could, it would be 100 per cent.

**Calum Kirk:** It is a similar answer from the Co-operative Group: the figure is well in excess of 90 per cent. Again, because we commit to take all milk from our farmers, we need to have the flexibility for seasonal spikes in production.

**John Richardson:** We do not operate the cost of production model but all of our products come from Graham's, which we chose partly because of the support that that company shows compared with the other processors and the price that it pays the farmer—it pays the most. One hundred per cent of the milk that we sell in store comes from Graham's. It is 100 per cent Scottish.

**Björn Nierhaus:** Equally, all of the milk I sell in Scotland comes from Graham's Family Dairy. I know that Graham's pays above the farm-gate price compared with other processors. All of our milk in Scotland is 100 per cent Scottish. Graham's manages the relationship with its farmers and has done so for us for 15 years. I have negotiated with the Graham family for 10 years, with the senior first and with the junior now. I hope that that is a good relationship; it certainly is for Lidl.

**Alex Fergusson:** Thank you.

**The Convener:** Graham Dey has a short supplementary.

**Michael Russell:** We did not hear from Waitrose.

**The Convener:** Sorry. Duncan, do you have any comment on the pool and on what price is paid to all farmers that supply you? [*Interruption.*]

**Duncan Sinclair:** I—[*Interruption.*—comes from the dedicated groups.

**The Convener:** I am sorry, but we missed the start of your answer because of a technical issue.

**Duncan Sinclair:** I was saying that 100 per cent of our liquid milk and cream comes from the dedicated groups. In Scotland, although we have only six branches and are a relatively new retailer, we have two farms who supply us through Graham's dairies.

**Graeme Dey:** Good morning, gentlemen. My question relates to the Sainsbury's advert on milk prices and the issue of transparency. Where do you perceive the public to be on the issue? Do you think that the public's decision on where to purchase milk is influenced by how fairly the

retailer treats the supplier, or do people simply want it as cheap as possible?

**James Bailey:** If we do not think that, we have just wasted a couple of hundred thousand pounds on some adverts. Yes; we hope that the public value that relationship. As some of the other panellists have said, we make a considerable investment in that, because we think that having values in our supply chain is important to our customers. That is why transparency and exposing those values, and making sure that the customers are well informed, are important.

**Calum Kirk:** Although we would like to think that that is the sole factor in the decision-making process, unfortunately it is not. Undoubtedly, it is a contributing factor in a customer's decision on where to buy milk, but the price of milk, which has been reduced quite significantly in the market, is also a factor. The price was reduced less in the Co-operative Group because we believe that we should hold value to a valuable commodity and our biggest selling line, but there was evidence to suggest that sales volume was lost when our price was slightly uncompetitive in the early stages of the recent retail price movements.

**Steve McLean:** We think that it is an important part of the decision. In general, customers want to ensure that, as a responsible retailer, we are doing the right thing by the people in our supply chain. We have to link it to the fact that we are offering a milk that has 6 per cent less saturated fat, so we are trying to innovate the product to create a different demand for it.

**Graeme Dey:** What about the discounters? Where do you sit on the issue?

**John Richardson:** It is important to consumers, in relation to the price that we put on the milk and all the other Scottish products that we sell. However, there are many customers who are financially constrained and the price of milk and other products is very important to them. If the price were higher, it could affect volume. However, at the price that we have been selling milk, we have seen huge volume increases over the last five years, because of the value of the offer to the customer. Those have been five very challenging years and we have been trying to support the customers through that period.

**Sarah Boyack:** As you will be aware, one of the key reasons that we wanted to hear from witnesses was to consider the issue of volatility and the future. Everyone says that in 10 years, the situation will be fantastic. The question is how dairy producers survive a time that is really uncertain for them. To what extent do you support farmers in helping them to be more efficient and resilient?

In written evidence, the Co-operative told us that it did not want to look at price in isolation. It said:

"We have a series of measures in place, unique to The Co-operative, which can help farmers increase the efficiency of their farms and reduce the cost of production. These include a series of professionally facilitated workshops on farm management, and access to low-cost energy and we support the cost of two vet visits to each farm per year."

When I asked the question yesterday, I found that that is not entirely unique, in that other people offer variations on the same theme.

What support do the different supermarkets give to the farmers and groups that produce the milk that they buy?

**Tom Hind:** There are a couple of issues. First, it is important to recognise that volatility is a fact of life and will remain so. Farmers face challenges in dealing with that and we can do something about it in terms of our pricing relationship, but we cannot do everything. The industry has restructured significantly over a number of years and will probably continue to do so.

In conjunction with our sustainable dairy group, we have worked in partnership with our milk processors and the University of Liverpool on an applied research facility at the university. It is a working dairy farm, where we work with our dairy farmers on a number of joint research projects that are primarily focused on animal health and welfare, given that our customers are concerned to ensure that cows are well looked after. The fruits of that research are disseminated across our producers and can help them to improve their business performance. We will look to do more in that area by working closely with our dairy farmers so that we can have a group of dairy farmers that not only have a strong relationship with Tesco but are efficient and resilient, given the challenges that lie ahead.

**Steve McLean:** Such approaches are common not only to dairy. We have a fairly well-recognised programme called farming for the future, which is about working together with our supply chains on how we can improve farm efficiency and the environmental impact, and what we term ethics, which is about people and the animals in the supply chain. We have a rolling programme through which we have funded innovation projects on a series of indicator farms to try to improve their overall efficiency, impact and effect. As I have said several times, we link that to creating systems and products that are different from those on the rest of the high street. That is how we operate; it is what our business model is about and we are proud of what we have achieved.

**Duncan Sinclair:** Across all our livestock supply chains, we have a range of activity under the banner of the Waitrose farming partnership. I

will give a couple of examples of the activities that are under way. In the dairy group and across all livestock, we have an initiative with Anglia Farmers that provides the opportunity for all our farmer suppliers to work together to get better, smarter deals on a range of farm inputs. In the conventional milk group, that approach has become compulsory. The decision was taken by the farmers on the steering group, who have seen the merit of the approach and see it as a means of working together, collaborating and getting a better deal for everyone.

We have a £2 million Technology Strategy Board project to grow more home-produced protein. We recognise that volatility in feed markets around the world has a big bearing on dairy, as well as on the monogastric sectors. The initiative has set a target of becoming much more self-sufficient by producing more home-produced protein and reducing reliance on soya, for example. Both an organic and a conventional dairy farm are involved in the project, along with three beef and three lamb farms.

Another area in which we are adding value is animal health. In Scotland there is a comprehensive bovine viral diarrhoea eradication programme, but across both our dairy groups we have put in place a BVD eradication scheme; that is a three-year project that we have put in train. Naturally, the two farms in Scotland are ahead of the game, because they are part of the national scheme in Scotland.

We are also proud of what we have done to find solutions for dairy bull calves, as there is an opportunity to add value there. In the herds that are not under tuberculosis restriction, we use the dairy bull calves for production of veal and link that through to our beef processor, so that the black and white bull calves mostly go off for veal production and surplus beef-cross calves are moved through a dedicated calf-rearing scheme, reared and come to us as finished cattle.

In addition to the price that we pay for milk, a range of options is available to our dairy farms to add value.

**James Bailey:** I would probably make a link between sustainability in the future and efficient farming. One of the things that has made an impression on our dairy group is that, when we kicked off the group in 2007, we set up a data-sharing system. We pay for vet visits, like a lot of the other companies that are represented round the table, and for environmental consultant visits to the farms every year.

We collect lots of data points on herd welfare and environmental measures and the farmers, by sharing that data anonymously and benchmarking, are able to share best practice and see what is

possible on the best farms. In our Scottish farms, we have found a rather remarkable improvement in efficiency. There have been improvements of 10, 15 or 20 per cent in the yield that farmers are able to achieve from their herds and in the cost of production, simply from benchmarking and sharing best practice. If the Scottish Parliament or the committee, following its inquiry, wants to support farming in the future, we would recommend a more inclusive version of that.

10:45

**The Convener:** Thank you. Mike Russell has a question on that.

**Michael Russell:** I think that it is fair to say that those farmers who are in the fortunate position of being in reasonable proximity to you and who supply you directly are—if I may use this term without being too facetious—the cream of the crop. I represent a rural area in which First Milk is the only processor that is able to collect milk in Kintyre and Bute. The lowest price there is, from 1 February, about 8p lower than the prices that you all quoted.

The only hope for many of those farmers is to ensure that the cheese that is produced, for example, is a premium product that sells well in your stores. I say to Tom Hind that I am sorry to use this as an example, but I searched for Mull of Kintyre cheddar in Tesco in Oban last week and there was one small container lurking at the back of a dimly lit shelf. Those dairy farmers are not getting their products into the supermarkets in the way that they need to. One might argue that they are crucial to the survival of parts of rural Scotland, but they are not being well served.

What role can you play in promoting Scottish dairy products? This is not just about cheese, although that is important. Graham's has led the way on spreadable butter, and other innovations need to be made, although there is a remarkable lack of innovation in the small-scale dairy products market in Scotland. What can you do, what are you doing and what do you intend to do to assist in that way?

**Calum Kirk:** If I may, I will answer that question in two parts. First, as a Campbeltown man, I fully affiliate to the region and the area and I am delighted to say that all the Scottish cheese that you will find in Scottish Co-operative stores is processed and produced in Campbeltown. That is a significant commitment to the Kintyre peninsula and those areas. We also have a number of direct relationships with some of our smaller producers in Orkney and Shetland, and we actively support those brands.

On adding value to that area of the country, we had a specific Mull of Kintyre premium product, but



unfortunately we removed it because it did not sell particularly well. Speaking on behalf of the Co-operative Group, I would thoroughly recommend that the likes of First Milk consider more closely customer requirements and customer missions for visiting convenience stores, and that they bring to us and share with us—and we will share ideas with them—ways in which we can add value through cheese from the area that you represent.

The Co-operative Group sees many blocks of cheese in different wrappers. It is looking to add value to, support and advocate for dairy-producing areas with products that are relevant to today's customer solutions and the reasons why customers come into convenience stores.

**Michael Russell:** That is very helpful.

**Björn Nierhaus:** I thank Mr Russell for making his point, because it is key for Scottish agriculture and agriculture as a whole to develop new added-value products and not to concentrate only on fresh milk. There is an oversupply of milk, and forms of exporting it to the rest of the UK or even to Europe are needed.

I listed Mull of Kintyre cheese at Lidl in 2009, when it was still managed by First Milk. There are many other products that the Scottish food industry needs to look at, whether it is dairy ice cream, yoghurts, which need to be developed, or other things. That would really help rural Scotland.

**Michael Russell:** Would you be open to stocking those products if they were produced in the right way? I am not negotiating with you; I am just asking. [*Laughter.*]

**Björn Nierhaus:** I am always happy to be approached by suppliers with good products that are vendable, be it branded products or own-label products. We sell butter across the UK, and I do not see why it should not come from Scotland or why own-label yoghurts should not come from Scotland. The key for development is to add value to products. However, as Robert Graham said last week, that needs investment in the industry and food processing, which is very important.

**Tom Hind:** Scotland has a great story to tell on food and drink. It is well supported by the Scottish Government and by organisations such as Scotland Food & Drink. However, as my fellow panellists have argued, there is a challenge for the dairy industry to ensure that the necessary investment takes place in customer-facing products that add value to raw milk as opposed to all the investment being in fresh liquid milk, which has probably been the case over the past 10 years or so.

From Tesco's point of view, we are really proud of our support for Scottish food and agriculture. We are Scottish agriculture's biggest customer

and work with 170 suppliers across Scotland, not only to sell products in our Scottish stores—80 stores in Scotland sell Mull of Kintyre cheddar—but to use our skill as a business to bring more of those products south of the border and into the rest of the UK. We are partnering with Scotland Food & Drink on the Scottish year of food and drink 2015. That is part of our contribution to helping to extend the reach of the excellent food products that are produced here in Scotland.

**John Richardson:** We do not stock branded products. We focus pretty much 100 per cent on own-label products, but we would obviously welcome the opportunity to get Mull of Kintyre cheese as an own-label product. Our block cheeses, with the exception of red Leicester, are 100 per cent Scottish, as is our block butter. In addition to all our Scottish block cheese—it is from Lockerbie and Dumfries and Galloway—we stock cheeses from Highland Fine Cheeses, Connage Highland Dairy and Orkney, so we have a very extensive range. Across the range, when we can stock Scottish, we stock Scottish.

On bringing those products to the market, we have tripled the size of our buying department in Scotland in the past two years. Indeed, more than 30 per cent of our sales now come from Scottish-sourced products, which is a very high percentage.

**Steve McLean:** To an extent, I support what our competitors around the table are saying. For us, it is important to make the point that we have long-established partnerships with processors in Scotland across all the different sectors. We take about 2,500 Scottish products into M&S stores, not just in Scotland but throughout our worldwide estate.

Looking specifically at dairy products, unfortunately we do not deal with Kintyre but we have partnerships with a number of interesting companies that have devised products that are very different. For example, with Dale Farm's Rowan Glen, we have developed Active Health strawberry yogurt drinks and cholesterol-lowering vanilla drinks. We have a number of products like that. We have also tried to innovate traditional products. For example, from First Milk we have a range of cottage cheeses: onion, chive, pineapple and prawn. Those are all things that add value and make the product very different from the typical.

Unfortunately, we cannot support every dairy farmer, much as we would like to. Where the industry sits at the moment is a harsh reality arising from the change in global demand and issues around some markets having been closed for different reasons. However, we are fairly fixed and have a very strong view that if we can help the industry to become more efficient and innovative

and to market the products better, that will be to Scotland's benefit.

Marks and Spencer is always looking for new products. We have a policy of ensuring that we have newness all the time, and there is never a closed door if somebody has the right product for us.

**Duncan Sinclair:** As the second son of Kintyre to give evidence this morning, I am delighted to say that we have Mull of Kintyre at Waitrose in around 75 per cent of our branches across Great Britain, and products like Seriously Strong Scottish cheddar across the entire estate.

We have worked particularly well with the Scottish industry—like others who have made similar contributions—when we have opened new stores. We have worked very closely with Scotland Food & Drink on meet the buyer events, at which we look for new products and support emerging businesses. Eighteen months ago, when we opened in Stirling, we launched a range of yoghurts from Katy Rodgers, a local supplier in that part of the world. Tomorrow we have a meeting with Scotland Food & Drink at another meet the buyer event, because shortly we will open a Waitrose branch at Milngavie in Glasgow. We are using those opportunities to provide openings for some of the innovation that is taking place in the sector.

**Graeme Dey:** Mr Richardson, I think that you said that 100 per cent of Aldi's butter is Scottish.

**John Richardson:** Our block butter, yes.

**Graeme Dey:** That makes me wonder about the evidence that we took previously that 85 per cent of the butter that is sold in Scotland comes from Denmark. Why is that? Is it a lack of available options? It sounds as if there is something out there at a reasonable price. Why does such a large percentage of the spreadable butter that is sold in Scotland come from outwith our country?

**John Richardson:** Aldi does not stock the spreadable butter that does not come from Scotland that you are talking about, because we do not stock the brand, but we stock Graham's spreadable butter. That is our main spreadable butter in the store, along with another own-label variant.

**James Bailey:** In the case of spreadable butter it is a quirk of the brand. The most popular brand happens to be Danish, but the work that Robert Graham and his team at Graham's are doing on their brand, and the sales that they have achieved in Scotland, demonstrate what you can do with a good brand in the right place, at the right time. That is good for us and our customers, so we would encourage that.

**Steve McLean:** Again, I might be in a slightly different place from some of our competitors, as we are an own-label retailer. Our block butter comes from Lockerbie and our cheddars come from Scotland.

**Jim Hume:** Last week, one of our witnesses said that there is anecdotal evidence that a number of supermarkets request payment for shelf space and that some suppliers pay supermarkets for the right to tender contracts. Of course, we have heard this morning that there is reasonable suspicion that one of the supermarkets that are represented here has been delaying payments or taking payment for better positioning of goods that is nothing to do with promotion.

Does any of the supermarkets that are represented here today require payment for contracts or prominent shelf space, outwith that for special promotions?

**Calum Kirk:** That is absolutely not the case for the Co-operative Group. Recently we ran a cheese tender. Our groceries supply code of practice compliance officer was present with all the suppliers at that meeting to ensure that all was fair, equitable and within the lines of GSCOP.

**John Richardson:** We do not charge our suppliers any additional costs for a number of things, some of which were mentioned this morning. We do not have a right-to-tender charge. We never charge any listing fees and we never have overrider or rebate arrangements with any of our suppliers. We were not even aware of forensic auditing until it came out in the news and we have never charged anybody for the positioning of their products. It is our job to sell their products and maximise our sales, not anyone else's.

**Tom Hind:** Given what the Groceries Code Adjudicator said earlier and the announcement that she made this morning, you will appreciate that I will not comment on the specifics of an investigation. We are co-operating fully with that, and have said that we will continue to do so. We have worked closely with the adjudicator. We take the groceries supply code of practice very seriously. It is important to the way that we do business, in building partnerships with our suppliers for the long term. We have a robust compliance process in place and we always look for opportunities to strengthen that so that we can uphold both the spirit and the letter of the code of practice.

11:00

**Björn Nierhaus:** I can confirm that we would not delay payments or charge for shelf space. We have direct negotiations with our processors that are fair and square. They are hard, but they are certainly without a hidden agenda.

**James Bailey:** As my colleagues have said, all the practices that Mr Hume describes or which have been mentioned are against the code of practice, and Sainsbury's takes its commitment to the code of practice very seriously. Anyone in our business who comes into contact with any of our suppliers has to go through mandatory annual training, and that has to be signed off and a register is kept. We take that commitment very seriously, so we do not recognise any of those practices.

**Duncan Sinclair:** As my colleagues have said, we very much work to the GSCOP requirements and we would not charge suppliers in that way. As others have said, we have a mandatory requirement that all those in our commercial division, whether they are a buyer or an agricultural manager, which is my role, have to undertake annual training.

**Steve McLean:** We are GSCOP compliant. Like Douglas Sinclair, we go through regular training. Actually, however, the practice is not relevant to us, because we are an own-brand retailer.

**Jim Hume:** It will be interesting to see how the Groceries Code Adjudicator proceeds with the first of her investigations.

You all say that you want to ensure that the farmer gets a fair price for his liquid milk, but we are also talking about cheeses, yoghurts and other products. How do the supermarkets ensure that farmers who provide liquid milk to the processors get a fair price for their milk, or do you not follow up on that?

**James Bailey:** We have development groups in other dairy supply chains, such as a cheese development group, and in many agricultural sectors, such as an egg development group. We support a group of about 80 farmers with farm investment in the form of milk recording visits and agricultural support.

In practical terms, milk is a relatively simple product with only one ingredient—in essence, it comes off the farm, is processed and is then sent to the shop. However, with more complex production processes, we have always run into problems when considering different ways of working with farmers. The complexity of the production means that it is difficult to disaggregate the cost of one ingredient from the others. If we tried to regulate the cost of one ingredient, we would have to start thinking about the costs and the efficiency of the production process and factor in things such as the cost of the packaging and understand whether that was included in the calculation. It is difficult to come up with a fair and transparent process for that.

**Alex Fergusson:** I have a supplementary on that. Yesterday, we were told in evidence by a

retailer that, although it would not dream of charging in any of the ways that we have just discussed, some suppliers, particularly larger ones, came with a support package—I think that that was the expression that was used—to help to promote a product. I presume that promoting a product means acquiring premium shelf space or whatever. Does any of our witnesses recognise that situation?

**John Richardson:** We do not recognise that at Aldi—suppliers do not come to us with a package. We always want a straightforward and transparent price for the product, and that is the end of the discussion.

**The Convener:** Are there any further comments? No.

**Alex Fergusson:** To clarify, are the witnesses suggesting that what I described applied to only one particular retailer? Is that what you are telling us?

**Steve McLean:** As I said, because Marks and Spencer is an own-brand retailer, the playing field is very different.

**Alex Fergusson:** I can see the difference.

The response is interesting. I thank the witnesses for their silence, I think.

**The Convener:** As you know, we have been taking evidence from the Groceries Code Adjudicator. From the point of view of the supermarkets, what impact has the establishment of the Groceries Code Adjudicator had on your operations in recent years?

**Björn Nierhaus:** When the Groceries Code Adjudicator was introduced, I only then noticed what other methods were being used, so it did not have any impact on our straightforward dealings with the suppliers. I did not know about the mechanisms that seem to have been prevalent or available on the market. I prefer straightforward negotiation and clear settlement, rather than strange paybacks.

**Tom Hind:** As I said before, we have a very strong, collaborative relationship with the Groceries Code Adjudicator. We meet the adjudicator regularly. It is important to have that relationship and to work co-operatively with the adjudicator.

**The Convener:** The EFRA Committee has suggested that there might be an extension to the role of the Groceries Code Adjudicator. How would that affect you and how you source your dairy products, including liquid milk?

**Steve McLean:** In the case of liquid milk, I would not foresee any change. We believe that we are doing the right thing anyway. Further down the chain, it would be interesting to understand the

complexity and how things would pan out. The principle of what such an extension to the role could do seems logical, but we need to understand how the arrangements would work and what the mechanisms would be.

**The Convener:** We are all at that stage at the moment but, as you are the people who would be most affected, it would be interesting to hear your points of view.

**James Bailey:** Further down the line, I am not sure how it would work in practice. We would have to be involved somehow in the contracting process between our first-tier suppliers and everyone else they contract with. As I have said, that is less complicated for liquid milk, although there is also the voluntary code of practice in place, which deals with most of the preferential terms of contract that would be desired in a farmer-processor relationship.

I am not sure that extending the grocery code of practice to that layer would make a great deal of difference. As the adjudicator said, the code of practice does not have any remit over price, and that is the prevalent issue for a lot of dairy farmers at the moment. In terms of practicality and the effects that such an extension of the adjudicator's role would have, I am not sure that it would do any good.

**Duncan Sinclair:** We have been very supportive of the establishment of the GCA from the outset. As a business, we would be keen to review any proposals to extend its role. Given the way in which we work with our supply base, we are comfortable and confident that that would not pose any major issue that we can foresee.

**Michael Russell:** The focus of this inquiry is the dairy industry—it does not go any wider than that. We heard from the Groceries Code Adjudicator this morning about her top five issues. Having led a sheltered life, I can tell you that what she said—the accusations about things that have been happening—made my hair curl. Can we clear this off as far as the dairy industry is concerned? You are all clearly saying, as far as I understand it, that you do not recognise any of the practices that were described as things that affect the dairy industry and the dairy market as it exists now.

**Steve McLean:** Some of those things were new to me, too, as the adjudicator laid them out. I do not believe that we are aware of such practices at all in our supply chains.

**Björn Nierhaus:** Those practices are new to me and certainly do not reflect the way in which we at Lidl do business.

**James Bailey:** I refer to the earlier answer about the code of practice. We go to strenuous efforts not to breach the code of practice. Those

are not practices that we recognise. Milk is a fast-moving product and we have a daily relationship with our processors, so some of the delays in payment that have been suggested simply cannot exist because of the way in which the process works.

**The Convener:** Does Tom Hind wish to comment?

**Tom Hind:** I am not in a position to comment, given my area of business. The adjudicator indicated earlier that she has been working collaboratively with a number of retailers so that areas that she has identified, wherever they may be, can be addressed.

**Duncan Sinclair:** I am not aware of the five points made by the adjudicator earlier. If you can share them with me, we can come back to the committee directly with our thoughts.

**The Convener:** We will send you the *Official Report*. There are obviously longer-term implications.

Did Mike Russell have further comments?

**Michael Russell:** No, I am quite happy. Those practices were new to me too. I had only read about them and seen them in films such as "The Godfather".

**Claudia Beamish:** I would like to ask about possible Government intervention at a whole range of levels. In written and oral evidence, a range of actions have been suggested at Scottish, UK and EU level, such as addressing the planning problems facing investment in processing, promoting export and possibly home market opportunities, and reducing or altering the EU intervention price for milk. Would any of the witnesses want to see particular actions taken by the Scottish or UK Governments to address current issues in the dairy sector? If so, what would those be?

**Tom Hind:** We are focused on delivering for our customers, so those are really matters for Government. In the past, we have talked about the importance of having in effect a national food plan to help the whole UK agri-food industry to improve its capability and capacity to produce more affordable food more sustainably to supply customers in the long term. That is a challenge that encompasses a number of areas but, as far as we are concerned, our focus is on delivering great-quality products to our customers.

**Claudia Beamish:** You say that it is about delivering for your customers. Where do your responsibilities lie further down the supply chain? Can you highlight that for us, from your perspective?

**Tom Hind:** It is really important to have long-term, sustainable partnerships with our suppliers. In the part of the Tesco business that I am involved in, in agriculture, our focus is on strengthening those relationships and taking them further back to farmers, because we recognise that it matters to our customers, who want to ensure that we are trading and working responsibly as a retailer, and also because we are mindful of the fact that, if we want to secure supply from the best, most invested and most innovative and dynamic farmers, we have to build stronger relationships with them and move towards a partnership model.

**James Bailey:** There are a couple of things that the Government could do. I refer you back to Robert Graham's evidence last week about planning and investment in the dairy sector. You have some fantastic Scottish dairy brands and other Scottish food brands that are incredibly successful in their well-invested businesses. Anything that you can do to support the next generation in getting through to that mid-size and large-size operation would be of benefit.

I will probably come back to the subject of transparency and information, but anything that the Government can do to improve the transparency of customer information, so that informed customers can make informed choices, would give customers the chance to vote with their wallets, which is the one thing that tends to move the market the fastest. An obvious example is that, if you are going to call something Scottish or put a Scottish flag on it, that product should have started and finished in Scotland, rather than just having been finished in Scotland. At the moment, the rules are relatively relaxed. Sainsbury's takes the position that we would not put the word "Scottish" or the Scottish flag on anything that was sourced externally to Scotland but packaged or finally produced in Scotland. If you tightened the rules and said that it had to start and finish in Scotland to be called Scottish or have a Scottish flag on it, that would help to inform customers, and help them to support the industry.

**The Convener:** We know from Quality Meat Scotland and so on about the kind of work that is being done in that direction for beef. That is a difficult area.

Several people want to come in, so please keep answers short.

11:15

**Duncan Sinclair:** The focus for us is on working with the farmers in our supply base. As we continue to grow, we provide opportunities in that way.

At the farm level, planning for adding new capacity as farms seek to capitalise on growing their business in tandem with us is becoming more challenging. That might be worth looking at, as well as some of the tax breaks that might be available on investment.

**Calum Kirk:** I have noted two points. It would be interesting to see the minister's progress on labelling and, like one of my learned colleagues, I would be interested to see the progress that can be made on how we serve our customers and what advocacy stands for at the national Scottish level and at the more local level. We would welcome any opportunity to get feedback from the minister on that.

The Co-operative Group sees it as a privilege to serve our Scottish customers. It will be most interesting to see developments with the Scottish brand that has been referred to at the past few meetings and how that will articulate itself, particularly to the Scottish convenience customer for the business that I represent.

**The Convener:** We have pursued many issues that relate to the problems for the dairy industry. We will finish by thinking about the future. Some witnesses have hinted about that, and a couple of members want to raise some points.

**Graeme Dey:** In the context of the inquiry, the committee is looking at how the dairy sector better positions itself for the future by focusing on the production of more than just liquid milk and on adding value. What are the barriers to your promoting Scottish dairy produce better? When we asked that question of some of your colleagues yesterday, one of them suggested that there was growth in the market for salad cheeses, but there is no domestic source for them. Are we in Scotland coming up short in any other areas that we should be looking to address?

**John Richardson:** Are you talking particularly about dairy?

**Graeme Dey:** Yes.

**John Richardson:** In dairy, we find it challenging to source a Scottish yoghurt. We have yoghurt from Newton Stewart that is branded because we cannot find own-label yoghurt. In the past, we had a relationship with the Katy Rodger products, which were mentioned earlier, and that provided own-label products. We would welcome as many opportunities as possible to source Scottish yoghurt.

**Steve McLean:** I made the point earlier that we massively overbuy raw material out of Scotland. We buy about £300 million of products a year globally. That is because those products are of the right quality and hit our customers' requirements and expectations. Doing anything that we can to

add value and innovate with products so that there is a point of difference is right up our street, because it further increases our buy out of Scotland.

**Calum Kirk:** Like Marks and Spencer, we take a disproportionate amount of Scottish products into the wider chain: 18 per cent of our milk is Scottish, but only 10 per cent of it is consumed in Scotland.

We need to innovate not just with products but in thinking and marketing. In my previous comment, I referred to the Scottish brand. I wait eagerly to understand the opportunities that have been identified in producing and helping us to sell Scottish products to our Scottish customers.

**Tom Hind:** I echo my competitors' remarks, but I also believe it important to reflect on the position of our industry and the farming industry. Now is a difficult time for a lot of dairy farmers, given the severe decline in milk prices that they have experienced and the volatility of the situation.

We should remember that the British dairy industry—and the Scottish dairy industry as part of that—has some of the best, most well invested in and most efficient dairy farmers in the European Union, but it is important that it maintains its competitive advantage in the long term. That is all about us as an industry benchmarking ourselves against our competitors elsewhere in the European Union, finding opportunities to become more efficient and innovative and creating the market opportunities that allow dairy farmers to put on to the market raw materials that can be processed and enter markets efficiently and competitively.

**Duncan Sinclair:** Innovation is important to the whole area. In our business, we are looking carefully at life stage nutrition and the important role that dairy products might play in that. We do not have a great deal to say about that at this time, but there is certainly an opportunity to explore what dairy products and ingredients could mean for that.

**Alex Fergusson:** My question very much follows on from the point that has just been made. It has become totally clear to all of us, if we did not know it already, that we in Scotland have enormous potential to add value to the basic milk product that we produce so well.

I was struck by the comment about the First Milk situation in Mike Russell's constituency that was made by Calum Kirk, who said that he was keen and willing to work with the creamery at Campbeltown and help it to produce a product that he could sell more readily, if I can put it that way. Are you proactive about going to processors and saying, "Look, if you bring us this product, we can sell it," or do you wait for the product to be brought

to you, and then you say, "Well, it's not what we want"? How much of a proactive relationship is there between you guys and the processors?

**Calum Kirk:** As a convenience retailer whose stores are smaller, we think it incredibly important to have a point of differentiation from some of our competitors around the table. That is why the Co-operative Group's dairy team is incredibly keen to work personally and professionally with producers to find new ideas and innovations and to bring them to market. If that means overinvesting time and effort, so be it, because we feel that that is absolutely our role.

We welcome such opportunities, and I reiterate my offer to work with any processors, including our colleagues in Kintyre, on bringing new innovations to the market. That is an important part of having a long-term sustainable relationship with our dairy producers and dairy farmers.

**Tom Hind:** It is very much a two-way street. We actively encourage our suppliers to come to us with fantastic and innovative products that will sell and are of a consistent great quality. This is very much a partnership—we can offer insights into our customers, what they think and what they are looking for, and we can work with our suppliers to ensure that they offer products that we think will sell to our customers. That is about having a partnership.

**John Richardson:** Our Scottish buying department is completely decoupled from the rest of our range and is 100 per cent dedicated to sourcing Scottish products. Its remit is to grow our Scottish range and maximise the number of Scottish products in our stores. Every week, the department is out visiting existing and new suppliers and searching for new products to put into our stores. We are focused on that work and are not distracted by anything else.

**The Convener:** I will ask Steve McLean to comment, but I point out that we need to be very brief.

**Steve McLean:** I hope that this will come as no great surprise, but innovation is the heart-blood of our business. For example, a third of the weighting in our category teams relates to new product development and developers. However, it is a joint process, and we have had a relationship with a number of suppliers for more than 50 years.

**James Bailey:** I echo those comments. Basically, our job is to look for new and innovative products that will sell well. However, that goes two ways—suppliers often come to us with new ideas, and in our conversations with them, we often talk about the things that we cannot get. In my experience and the experience of my Scottish buying team, Scottish suppliers are innovative and

proactive—shall we say—in bringing their ideas to us.

**The Convener:** I guess that I am at the cutting edge, as I represent the far north of Scotland. Highland Fine Cheeses in Tain, for example, has managed to save a couple of dairy farms by using what they produce in its own excellent product, which some of you sell. It has been suggested to me that the next development might involve sheep milk; after all, we have plenty of sheep in the far north, and that might be an innovative way of using them. Why go for Roquefort when you can have Caithness sheep milk cheese?

We wanted to get as wide a view from you as possible, and I thank you for being our witnesses and for the evidence that you have given. Although the inquiry has been short, we have learned a huge amount from you about the role of retailers, and we will now consider that evidence.

At our next meeting, we will deal with the Community Empowerment (Scotland) Bill at stage 2 and hear oral evidence on the Scottish Government's wild fisheries review.

*Meeting closed at 11:25.*





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