



THE COMMERCIAL
ACADEMY

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The Australian Food and Grocery Code of Conduct

PART 5

Dispute Resolution

Retailer's or wholesaler's

Code Arbiter

RETAILER'S OR WHOLESALE'S CODE ARBITER

- Retailers and wholesalers must appoint a Code Arbiter to handle disputes.
- The appointment is notified to the Commission and the Independent Reviewer.
- Code Arbiter's costs are covered by the retailer or wholesaler to ensure effective functioning.
- Code Arbiter's independence is safeguarded; undue influence is prohibited.
- The Code Arbiter's access to relevant documentation and retailer's buying team is ensured.

CRITERIA FOR CODE ARBITER APPOINTMENT

- Each Code Arbiter is solely engaged for this role.
- Exception: Market share <15% in current or previous financial years.
- This safeguards impartiality and objectivity.

CODE ARBITER'S FUNCTION AND COMPLAINT HANDLING

Code Arbiter addresses complaints against retailers and wholesalers.

Each Code Arbiter must develop a complaint handling procedure that is consistent with the code.

The procedure must be

- Reviewed and updated annually.
- Shared with relevant parties.
- Published on the retailer or wholesaler's website.

REFERRAL OF COMPLAINTS TO CODE ARBITER

- Suppliers can submit written complaints to the Code Arbiter.
- Complaint details must include identification, contacts, conduct, relevant code provisions.
- Confidentiality of the supplier identity is maintained unless the supplier provides consent.
- Code Arbiter must observe confidentiality requirements during the process.

INVESTIGATION BY CODE ARBITER

- The Code Arbiter's role is to investigate complaints and aims for timely conclusions.
- Investigation considers lawful and good faith obligations.
- Fairness in dealings between retailers/wholesalers and suppliers is assessed.
- Unilateral variation complaints are not dismissed solely due to supplier detriment.

CODE ARBITER'S DETERMINATION OF PROPOSED REMEDY

- Code Arbiter determines actions in response to complaints.
- Remedies may include compensation or agreement variation.
- Compensation not exceeding \$5 million is allowed.
- Before determining a variation to a grocery supply agreement the Code Arbiter may consult with one or both parties.

NOTICE OF DETERMINATION AND FURTHER ACTION

Code Arbiter must notify the
determination to the supplier within 5
days setting out:

- The determination made
- Reasons for the determination
- Timetable for proposed remedy

The notice must also be provided to the retailer or wholesaler with reference to the supplier redacted unless:

- The supplier consents to their identity being disclosed; or,
- The supplier has accepted a proposed remedy in relation to the complain.
- Supplier's right to request an independent review or mediation/arbitration is highlighted.

SUPPLIER ACCEPTANCE OF PROPOSED REMEDY

1. A supplier can accept a proposed remedy in writing.
2. The Code Arbiter enters an agreement if conditions are met.
3. The retailer or wholesaler must comply with the agreement.



LAPSE OF PROPOSED REMEDY

1. Proposed remedy lapses after 20 business days.
2. Independent Reviewer review request extends the lapse period.
3. Lapse depends on Independent Reviewer's decision or outcome of review.

CODE ARBITER RECONSIDERATION

- Code Arbiter reconsideration is triggered by a request from the Independent Reviewer.
- It requires swift action within 10 business days.
- Is designed for fair and balanced resolution for both suppliers and retailers.

RECORD-KEEPING

The Code Arbiter must maintain comprehensive records for at least 6 years.

This includes records of:

- Each complaint
- The investigations undertaken
- Any notices given
- Actions taken in response to the complaint

ANNUAL REPORT

Each Code Arbiter must provide an annual report that includes:

- The number of complaints received in the financial year for investigation.
- The nature of the complaints.
- Outcomes of each investigation.
- Were the complainant(s) satisfied with the resolution.

SUMMARY AND CONCLUSION

- The Code Arbiter is crucial for resolving disputes under the code.
- The Process is designed to ensure transparency, fairness, and efficiency.

That delivers

- Supplier empowerment through structured complaint handling.

and

- A balanced approach to foster trust and collaboration.

CONCLUSION

Compliance with the Australian Food and Grocery Code of Conduct is critical for suppliers and retailers in the food and grocery industry to ensure fair and transparent trading relationships.

For more information on the Code and its requirements, visit the Australian Government's official website:

<https://www.legislation.gov.au/Details/F2021C00201>





DISCLAIMER

Based on content from the Federal Register
of Legislation at 5th March 2021. For the
latest information on Australian Government
law please go to:

<https://www.legislation.gov.au>

WHEN THIS CODE APPLIES

Want to know more about the Australian Food & Grocery Code of Conduct?


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Follow us to receive the more Code of Conduct insights over the coming weeks:

1. **Preliminary and Good Faith**
2. **Grocery Supply Agreements**
3. **Paying Suppliers**
4. **Requiring Payments from Suppliers**
5. **Delisting Products**
6. **Other Conduct**
7. **Price Increases**
8. **Dispute Resolution**
9. **Strategies for Successful Resolution**
10. **The Code's Independent Reviewer**
11. **Mediation and Arbitration**
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