



THE COMMERCIAL
ACADEMY

@Nick Hogendijk



The Australian Food and Grocery Code of Conduct

PART 1 - 1A

Preliminary
Good Faith

WHEN THIS CODE APPLIES

The code applies to a corporation as a retailer or a wholesaler if they agree to be bound by it.

Today this includes:

- ALDI
- Coles Supermarkets
- Metcash (30th September 2020)
- Woolworths
- A retailer is a corporation that carries on a supermarket business in Australia for the retail supply of groceries and purchases groceries from suppliers for the purpose of resale.
- A wholesaler is a corporation that purchases groceries from suppliers for the purpose of resale to a person carrying on a supermarket business in Australia for the retail supply of groceries.

OBLIGATION TO DEAL WITH SUPPLIERS LAWFULLY AND IN GOOD FAITH

- Retailers and wholesalers must always deal with suppliers lawfully and in good faith.
- Grocery supply agreements cannot contain provisions that limit or exclude the obligation to act in good faith.
- The provision would have no effect if such a clause exists in a grocery supply agreement.

FACTORS TO DETERMINE GOOD FAITH DEALING WITH SUPPLIERS

- Honesty, cooperation, and not acting arbitrarily, capriciously, unreasonably, recklessly, or with ulterior motives can demonstrate good faith.
- Not using retribution against suppliers for past complaints and disputes is a factor.
- The retailer or wholesaler must not act in a way that constitutes duress during their trading relationship with the supplier.
- The need for certainty regarding the risks and costs of trading must be acknowledged when conducting business with the supplier.

FACTORS TO DETERMINE GOOD FAITH DEALING WITH SUPPLIERS (CONT'D)

- Any confidentiality requirements related to information disclosed or obtained in dealing with or resolving a complaint or dispute with the supplier must be observed.
- The supplier's good faith conduct when dealing with the retailer or wholesaler is a factor in determining good faith.
- These factors do not limit the obligation to deal with suppliers lawfully and in good faith.
- It is essential to determine good faith dealings with suppliers to foster a healthy business relationship.

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?

 Follow

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**
12. **Compliance**
13. **Summary of the Code**





If you enjoyed this, please like
and comment on this post. 

Contact us to learn more about how our
training and resources can help your
organisation comply with the Code and
grow your business.



THE COMMERCIAL
ACADEMY