



18 January 2019

Mr Jason Lange  
Executive Director  
Office of Best Practice Regulation  
Department of the Prime Minister and Cabinet  
1 National Circuit  
BARTON ACT 2600  
Email: helpdesk-OBPR@pmc.gov.au

Dear Mr Lange

**CERTIFICATION OF INDEPENDENT REVIEW: THE FOOD AND GROCERY CODE OF CONDUCT FINAL REPORT – EQUIVALENT TO A REGULATORY IMPACT STATEMENT (RIS)**

I am writing to you in relation to the Regulatory Impact Statement (RIS) requirements for implementing the Government's response to the *Review of the Food and Grocery Code of Conduct Final Report* (Final Report).

I certify that the independent review team led by Professor Graeme Samuel AC undertook a process and analysis equivalent to a RIS process in the preparation of the Final Report (**attached**) and wish to submit this report to meet the RIS requirements for implementing the Government's response to the Food and Grocery Code of Conduct (the Code).

I am satisfied that the RIS meets best practice requirements and is consistent with the ten principles for Australian Government policy makers.

In particular, I note that the Final Report addresses the seven RIS questions, which have been summarised at Appendix F of the Final Report:

- *What is the problem?* – The Code was introduced to regulate the way major supermarkets (retailers) and wholesaler do business with their suppliers, to promote healthy commercial dealings. The 2018 review of the Code identified provisions that were not operating as intended and recommended amendments to improve protections for suppliers.
- *Why is government action needed?* – Amendments to the Code are necessary to ensure that it remains effective in regulating proper commercial norms between the parties and providing suppliers with protection against unfair conduct.
- *What policy options are being considered?* – Three options are outlined, namely a 'status quo' option, an enhanced voluntary code option and a mandatory code option.

- *What is the likely net benefit of each option?* – The ‘status quo’ option would involve no additional regulatory costs, but may not sufficiently address concerns in the sector. A mandatory prescribed code would provide greater market coverage, but would likely have higher compliance costs. An enhanced voluntary code would address issues identified during the review and encourage an industry-led response, without being overly prescriptive or burdensome.
- *Who will you consult and how will you consult them?* – The review team consulted widely and has sought views from signatories to the Code, food and grocery suppliers (including multinational companies and family enterprises), the Australian Competition and Consumer Commission, industry bodies, academics and relevant government bodies. The Review received feedback in a range of forms, including written submissions, face-to-face meetings and via teleconference.
- *What is the best option from those you have considered?* – The review team considered the three options according to their respective costs and benefits, in consultation with stakeholders. An enhanced voluntary code best addresses the issues in the industry while providing flexibility for the parties to engage in productive and robust commercial dealings.
- *How will you implement and evaluate your chosen option?* – It is proposed that a review of the Code be conducted, three years after the Government’s response has been implemented. The review would assess whether the changes to the Code have been effective or whether other changes are required to keep pace with this highly dynamic industry.

I also note that the regulatory burden to business, community organisations or individuals has been quantified. These have been self-assessed by the Department as they are less than \$2 million per annum. As part of this assessment, Treasury consulted with the Office of Best Practice Regulation (ref. ID 23950) and the costs are provided below.

<b>Regulatory burden and cost offset estimate table</b>				
<b>Average annual regulatory costs (from business as usual)</b>				
Change in costs (\$ million)	Business	Community organisations	Individuals	Total change in costs
Total, by sector	\$0.1	\$0	\$0	\$0.1
Cost offset (\$ million)	Business	Community organisations	Individuals	Total, by source
Agency	\$0	\$0	\$0	\$0
Are all new costs offset?				
<input type="checkbox"/> Yes, costs are offset <input checked="" type="checkbox"/> No, costs are not offset <input type="checkbox"/> Deregulatory—no offsets required				

**Regulatory burden and cost offset estimate table**

**Average annual regulatory costs (from business as usual)**

Total (Change in costs – Cost offset) (\$ million) = \$0.1

A regulatory offset has not been identified. However, Treasury is seeking to pursue net reductions in compliance costs and will work with affected stakeholders and across Government to identify regulatory burden reductions where appropriate.

Accordingly, I am satisfied that the attached report now meets best practice consistent with the *Australian Government Guide to Regulation*.

Yours sincerely



Hamish McDonald  
Acting Deputy Secretary  
Structural Reform Group  
18 January 2019