

Balmain House

Statement from Hon Jeff Kennett AC - Grocery Code Arbiter

In August 2004 I was appointed the Independent Arbiter for Coles Supermarkets under the Coles Supplier Charter.

My role was to act independently of Coles to resolve disputes between merchandise suppliers and Coles.

The Federal Government amended the Food and Grocery Code of Conduct (**Grocery Code**) to require every supermarket retailer to appoint a Code Arbiter.

That person must be totally independent of the supermarket retailer that appoints them and have no other role with the supermarket retailer, in my case Coles.

To that end my appointment under the Coles Supplier Charter has ended, and I have been subsequently appointed by Coles as their Independent Code Arbiter to conform with the changes to the Grocery Code that came into effect on 3rd October 2020.

How to make a complaint

If you believe Coles has not complied with the Grocery Code, you can raise your complaint with me.

The complaint must be in writing and include the following:

- (a) your identification details, including business or trading name;
- (b) your contact details, including the name, title and telephone number;
- (c) details of the conduct giving rise to the complaint, including any documents or other information that would assist the investigation of the complaint; and
- (d) the provisions of the Grocery Code that are relevant to the complaint.

The complaint should be sent to jkennett@ausresolve.com.

Investigation

- (a) Confidentiality

I will agree any confidentiality requirements at the beginning of the investigation.

I will advise Coles of any complaint received but will not release your identity unless otherwise agreed with you.

If I must disclose information about your identity or facts of the complaint to Coles team members in order to effectively investigate the issues raised, I will advise you of the information and the Coles team members to whom that information is proposed to be disclosed and will obtain your prior consent to the disclosure.

At the conclusion of the investigation, any report provided to Coles will have all references to you and any information that would disclose your identity removed, unless you consent to your details being included in the report.

The Honorable
JEFFREY G. KENNETT AC

Balmain House, 69 Balmain Street Cremorne Victoria 3121 Australia
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(b) Commencing an investigation

Upon receiving notice of a complaint, I will provide written acknowledgment to you within 5 business days of the receipt of your complaint, and will advise you of the steps that will be taken as part of the investigation and the estimated time for completion.

I will identify the basis of the complaint and the outcome sought by you at the commencement of the investigation.

Once I am across the facts, I will then, with your permission, seek from Coles the records or any further information that might assist me make a determination. I will also as part of my determination seek to meet with one or more of the staff at Coles to help me in determining an outcome.

You will not be charged for raising a complaint with me.

(c) Concluding an investigation

In handling your complaint, I will:

- take all reasonable steps to conclude the investigation within 20 business days of referral, unless an extension to the timeline is agreed with you; and
- provide a confidential report to you and to Coles within 5 business days of concluding the investigation setting out the issues and findings made, any action required to resolve the matter and the timetable for any such action.

Before determining that Coles should vary a grocery supply agreement, I may consult with Coles, or you, or both.

Where my decision includes compensation payable by Coles, my final report will:

- specify the amount of compensation up to the value of \$5 million; or
- a recommendation for the amount of compensation where it exceeds \$5 million.

Within 20 business days of receiving my final report, you must advise if you accept the remedy I have proposed.

Coles will:

- be bound by my final decision if it includes compensation up to \$5 million and it is accepted by you;
- advise you if it agrees to any additional compensation as recommended by me; and
- initiate any action proposed by me to resolve the dispute.

If, after investigating the complaint, I am satisfied that the complaint is vexatious, trivial, misconceived or lacking in substance, I will let you know in writing the reasons why I believe this is the case.

Dissatisfaction with outcome

If you are dissatisfied with my process for resolving your complaint, you can refer the complaint to the Independent Reviewer or seek external mediation or arbitration in accordance with the procedure set out in the Grocery Code.

You can refer the complaint to the Independent Reviewer to review the process regardless of whether you have accepted my remedy.

The Honorable
J E F F R E Y G . K E N N E T T A C

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