

PROMOTIONS

A FOOD AND GROCERY CODE OF CONDUCT GUIDE

BACKGROUND

The Australian market is dominated by a high frequency and depth of promotions, with 38 per cent of products sold in 2018, sold on promotion (Nielsen presentation, FGA 2019). This places Australia second on the list of international markets most reliant on promotions.

This high level of promotions has led to challenges in retailer-supplier relationships around who determines when promotions occur, what the promotion is and who provides the funding for it.

INTENT

The intent of these provisions is to provide a transparent framework for promotional activity.

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RELEVANT FGCC PROVISIONS

18 Funding Promotions

- » The signatory must not directly or indirectly require a supplier to fund part or all of the costs of a promotion.
- » Where the Grocery Supply Agreement (GSA) provides for the funding of the promotion, the funding must be reasonable in the circumstances, based on the likely benefits to both the supplier and the signatory from the promotion and the costs borne, or contributions made, by the signatory for the promotion.

20 Funded Promotions

- » The retailer must provide the supplier reasonable written notice that they are going to hold an agreed supplier funded promotion.
- » The retailer must ensure that the quantity of the promotional price order is calculated in a transparent manner.
- » The retailer must not over-order at promotional price and the supplier must be rebated the difference of any over-ordered stock that is sold above promotional price.
- » Where the retailer has placed an order with a supplier for product in connection with a promotion, the retailer must not cancel the order or reduce the order by more than 10 per cent unless the supplier provides written consent or the retailer either:
 - (a) gives the supplier reasonable written notice of the cancellation or reduction.
 - (b) compensates the supplier for any net resulting costs, losses or expenses incurred or suffered by the supplier as a direct result of the retailer failing to give reasonable notice of the cancellation or reduction.

WHAT SHOULD HAPPEN

- » Promotional planning and decisions should be a joint activity between the signatory and the supplier to reach mutually beneficial outcomes that consider the needs of both parties and the relevant category growth.
- » Where a promotion is not managed via a POS/scan mechanism, the quantity of the order should be calculated in an agreed transparent manner and there should be a clear record of actual volume sold on promotion to ensure rebates for additional stock sold at full price can be made to the supplier.

SUPPLIER CONSIDERATIONS

- » Retailers that manage promotional payments via POS/scan mechanisms will not generally breach the funded promotions obligations.
- » Suppliers should consider incorporating 'reasonable notice' parameters into their GSAs that provide a framework around notice for promotions and agreed compensation should the retailer cancel a promotional order or reduce it by more than 10 per cent.
- » Suppliers with an agreed 'forecast' with a retailer for a promotional activity may have further protection under these provisions, especially if the forecast can be converted into scheduled deliveries.



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