A grocery code of conduct could finally be on the horizon, industry associations say

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When the federal, provincial and territorial agricultural ministers meet later this month, one controversial item of the agenda will be the fee hikes that some large grocery retailers have put on suppliers recently.

Industry associations representing independent grocers, food producers and suppliers are hoping for a grocery code of conduct that could prevent large grocery chains from implementing extra fees on suppliers, a move they say negatively affects all players in the supply chain.

Some industry leaders have been asking for a code of conduct for years. But this time, amid the COVID-19 pandemic, they think it could actually happen.

For one, they're seeing more political interest in the issue, likely thanks to the pandemic. As well, more and more industry associations — producers, suppliers and independent grocers — are signing on in support, said Gary Sands, senior vice-president of the Canadian Federation of Independent Grocers (CFIG).

He pointed to an October report supported by more than 30 grocer, producer and supplier associations across Canada, including the CFIG, that surveyed Canadians about the food supply chain and called for a code of conduct.

"When you have this many associations all aligned from different sectors in the industry and saying, this has to happen … the momentum here is growing," said Sands.

"This is the most progress I've ever seen on this issue. Ever."

And recently, the associations were joined by an unlikely ally: Michael Medline, the CEO of Sobeys and its parent company Empire Company Ltd.

When Walmart Canada, Loblaws, and United Grocers Inc. (which includes Metro Inc.), increased supplier fees in recent months, many expected Sobeys, another Canadian grocery giant, to follow suit.

Instead, Medline called his competitors fee hikes “repugnant” during a virtual talk with the Empire Club of Canada on Oct. 28, and said it’s time for a code of conduct.

“I don’t think you can overstate the significance of that,” said Sands.

In a news release Thursday, the Ontario Fruit and Vegetable Growers’ Association said it is encouraged by Medline’s stance.

“Hopefully that will encourage other retailers to follow suit,” said the association’s chair Bill George.

And there are indicators politicians are taking note, too.

Conservative MP Lianne Rood asked when the Liberal government would “tell Loblaws and Walmart to stop the bullying tactics that put farmers and food processors at risk,” during question period on Nov. 4.

“The fact that it’s on the agenda for the federal, provincial, territorial meeting is a very good indication,” said Kathleen Sullivan, CEO of Food and Beverage Canada.

The idea of a grocery code of conduct isn’t a new one. Several other countries — Australia and the United Kingdom, for example — have created them in recent years to help level the playing field in the grocery industry, making agreements fairer for smaller players.

So why do Sands, Sullivan and other industry advocates believe this time the government could actually move forward with a code of conduct?

For one, the pandemic.

Sands believes that when several large grocers increased supplier fees amid a pandemic, more people — industry leaders and regular Canadians — took notice.

The fees introduced by Loblaws and Walmart were a “tipping point” for the industry, said Mathieu Frigon, CEO and president of the Dairy Processors Association of Canada, which commissioned the survey highlighted in the October report.

Sullivan agreed.

“Our estimate is that food manufacturers have taken on about $800 million in additional costs, just to adjust to working in COVID-19. And so, in that context … the timing was not tasteful,” she said.

Frigon said in an email he’s hopeful Medline’s comments will signal to governments that both sides want to address this issue.

“But, right now Sobey’s is an outlier,” he added. “It’s just one of five companies that controls the market.”

Sylvain Charlebois, a professor in food distribution and policy at Dalhousie University, has noticed the momentum, too — in fact, he’s changed his own mind on this issue.

“Given what’s been happening in recent months. I don’t think we have much of a choice but to consider (a code of conduct) very seriously,” he said, adding that the fee hikes are “the number one issue affecting food processing right now.”

These fees affect not just independent grocers and suppliers, but also producers — any extra cost or pressure shouldered by one part of the supply chain will be downloaded to the rest, affecting food prices, jobs and more, said Sullivan.

“It has a tremendous impact on product development, on the ability to bring in innovative equipment and automation. It has a real impact on the new products that you’re seeing here in Canada.”

But even with the support of Sobeys, the path to a grocery code of conduct isn’t simple. The concept faces opposition from most of Canada’s major grocery retailers, and those who represent them.

Medline’s comments put the other major grocers — and the Retail Council of Canada, which represents them — in a difficult position, said Charlebois.

Sands agrees.

“Obviously (Medline) gave the issue more traction, but it also now forces (the) Retail Council to re-evaluate its whole position on the code, because Sobeys is one of its biggest members,” he said.

However, Retail Council spokesperson Michelle Wasylyshen said in an email that the council “does not believe that any of its members has put the organization in a ‘difficult position.’ ”

Despite the organization’s members’ varying opinions, “RCC continues to support the widely (held) belief that a code of conduct is not required,” she said.

“Suppliers (producers and processors) are constantly pushing for price increases, often far higher than the rate of inflation, while grocers push back in order to hold the line on prices and where possible, to lower them,” Wasylyshen said, adding that “governments should be leery about putting their thumb on the scale in favour of behemoths in the food processing industry.”

A spokesperson for Metro said in an email, the company favours “a market solution over government intervention and oversight that may lead to unintended consequences.”

“With regard to a code of conduct that would frame the relationships between retailers and suppliers, we encourage a voluntary and constructive dialogue between industry players and associations,” the spokesperson said.

A Walmart spokesperson defended its decision to hike supplier fees, calling it “a carefully considered business decision to deliver the everyday low prices our customers trust.”

Neither Sobeys nor Loblaws responded to requests for comment.

Both Sands and Charlebois cautioned that creating a code of conduct won’t be an easy task.

“It has to be a balanced code,” said Sands. “It has to be a code that captures everyone, that applies to everyone and benefits everyone.”

Charlebois said if the code of conduct doesn’t still allow for competition in the industry and instead just raises costs, grocers could actually be enticed to buy from outside Canada, causing more harm to suppliers and producers.

“An ill-implemented code could actually do the reverse of what we want it to do.”