

From Code Compliance to Fair Purchasing Practices: Some Issues for Discussion



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Comments welcome

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Introduction

Addressing the negative impact that *purchasing practices* or *sourcing systems* can have on code compliance was one of main demands in the Play Fair at the Olympics campaign. It urged companies to ‘...change their purchasing practices so that they do not lead to workers’ exploitation, with prices being made fair, deadlines realistic, and labour standards given the same status as price, time, and quality’.¹ In other words, it was recommended that sourcing companies address the conflicting logic of simultaneously pursuing lower prices and shorter delivery times whilst at the same time pursuing compliance with labour standards.²

At least at first sight, this recommendation fits in well with the CCC’s basic position that a company’s responsibility for ethical working conditions encompasses its complete subcontracting chain all the way down to the garment home workers. Since purchasing practices represent the single most important way through which commercial relations are established, it seems totally logical that this demand has become a part of the campaign activities. At the same time, however, much remains unclear about this topic. Buyer-supplier relationships in apparel supply chains are very complicated, and involve management problems that are very different from our usual concerns. It requires a knowledge of the relationships within production chains: Who is involved at what stage, where and on whose behalf. Not only are these contracts established behind closed doors, there is also little academic or ILO research to fall back on.

This paper will first briefly discuss the main elements related to purchasing practices and their relation to the CCC’s campaign activities. Then I will briefly recall some experiences from the Play Fair campaign concerning purchasing practices. I will conclude with some questions for further discussion. For the CCC, this was the first public campaign in which purchasing practices emerged as an important element. This was certainly important as both a learning experience and as a way of getting the topic discussed. However, it is important to raise some questions about how far campaigners should go down this road.

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What are purchasing practices?

In this context, purchasing practices refers to the way sourcing companies (such as brand-name corporations, retailers, and agents) organise the purchasing of their products from manufacturers (or suppliers/vendors).

Purchasing practices versus code compliance

Even if companies adopt codes of conduct that reflect good standards, the overall impact of this instrument on improving labour standards is often fairly limited. One important underlying reason is that the purchasing practices commonly found in the athletic footwear and apparel sectors have not been adequately amended to enable one to make the labour rights strategies effective.

These purchasing practices, designed to maximise profits and transfer the risk down the supply chain, have three structural characteristics that undermine code compliance:

1. Unstable relationships between buyers and suppliers (constant relocation, on-line auctions);
2. Falling prices: unit prices in the apparel and sportswear industry have been falling for over ten years (profit squeeze);
3. The way that lead times and delivery schedules are established: This includes ever shorter delivery lead times, rush orders, abrupt order cancellations, and fragmentary orders.

Together they have an important influence on the capacity of the supplier to comply with the labour standards and these factors should be addressed in order to make sustainable improvements. Pressure on suppliers to produce quickly and flexible against lower prices and other factors is easily translated into the widespread and well-documented precarious employment situation of women workers in particular (see Play Fair report, or Oxfam, 2004).

Distributing the costs of code implementation

It is important to recognise that most of the elements presented in an average code of conduct lead to increases in the cost of production. To name a few, safer working conditions (regulation clothes, or shoes, etc.), social security, restrictions on overtime, toilet breaks, all increase labour costs. Likewise, an increase in holidays also costs money, just like menstruation or pregnancy leave. Reducing a workweek from 70 to 40 hours costs money because the factory either has to employ more labourers or take more time to finish the same order. The right to collective bargaining and independent unions would also likely increase labour costs indirectly. Logically, the right to strike, or to resist otherwise, could potentially cost companies money as well (Merk, 2003). Buyers sometimes suggest that implementation of good practices 'could make suppliers less competitive, because of the costs incurred in improving social and environmental performance' (World Bank, 2003: 28).

The key question that NGOs and trade unions pose is therefore how the costs of improving labour standards are distributed among the different companies in the production chain. There is a risk that suppliers will not only be confronted with falling prices but additional costs as well. For example, it has already been reported that Asian toy manufacturers complain that their profit margins have decreased

because Western brand-name companies force them to improve labour conditions but 'do not want to share the cost in raising labour standards'.³

Is there a business case for fair purchasing practices?

Some companies try to make a business case for improving labour conditions. They argue that improving the productivity of the supplier might compensate for the costs of implementing ethical standards. In other words, it is assumed that implementation of ethical social practices will translate into business benefits associated with lower rates of absenteeism, more satisfied workers, or a lower labour turnover. Adidas, for example, claims that it is seeking to both improve factory performance and the well-being of workers.

Others have pointed out that existing purchasing practices might actually be inefficient. Research conducted for Insight Investment, a UK fund that managed £67.8 billion in 2003, concluded that

while some corporations may be inadvertently pursuing a purchasing strategy that creates tension, or in some cases directly conflicts with their commitment to ethical sourcing. Ironically, it also indicates that pressures of these kinds are often placed needlessly. They result simply from bad purchasing practices – inefficiencies, indecision, badly designed incentives and a lack of trusting business relationships. Such failures are therefore double undesirable: they cost companies money and undermine their commitments to source responsibly (Acona Insight Investment, 2004: 4).

This research suggests that better management systems might 'marry the commercial with the ethical'. It suggests that companies might have an insufficient understanding of the possible benefits associated with ethical purchasing practices.

Nevertheless, there is much reason to be sceptical about the 'business case' for pursuing better working conditions. A World Bank study addressing this question came to the conclusion that in particular suppliers are sceptical about whether the business case actually exists (2003: 27). Also, companies might try to sell their ongoing quest for the rationalisation of production – faster delivery times, increased efficiency, etc. – as part of an ethical programme. Thus, the business case for ethical practices first of all represents a utilitarian argument based on the idea that improving working conditions can make production more efficient and profitable. Actions here are judged by their outcomes (e.g., profits) rather than on purely moral grounds.⁴ It therefore fits in perfectly with the standard neo-liberal discourse.

Would fair purchasing practices translate into fair labour conditions?

Fair purchasing practices seen from the brand-name companies' viewpoint, although important, only create the circumstances under which fair labour practices *may* come to existence. This means that 'fair' purchasing practices do not automatically lead to

better working conditions, but are just as likely to be used to the profits factory management/ownership. For instance, a better price for factory output might be used to invest in new production sites or expand existing ones. Likewise, longer delivery times do not necessarily lead to a shorter workday because factory management might just turn around and start accepting orders from other customers instead. Thus better purchasing practices will only improve labour conditions if they are covered by a monitoring system that is able to guarantee that better purchasing practices are translated into better labour conditions or if workers – through freedom of association and collective bargaining – are able to negotiate for better wages and working conditions. In other words, while purchasing practices are part of the problem, they are not necessarily part of the solution.

Here the role large Southern manufacturers or purchasing companies play in the structural violation of labour rights is of particular importance. While buyers often have more power and are capable of dictating the contract terms, the emergence of large production TNCs or buying houses shows that this is not automatically the case. Note, for instance, that both Yue Yuen and Li & Fung are much bigger (in both turnover and net profits) than any of so-called “laggard companies” targeted by the Play Fair at the Olympics campaign.

Global competition

Addressing purchasing practices needs to take into account the logic and reality of capitalist competition. There are at least three issues to consider. First, prices in the apparel and athletic footwear sectors have been stagnant for over a decade. Thus, even though buyers often have much power vis-à-vis suppliers to set prices, at least in these industries, they have few tools with which to control consumer prices. Second, competition at the retail point is often fierce, which means that the profit margins of the large purchasers are likely to be quite small. For example, it is noted that Swiss retail companies are often shoved aside by their German competition. Third, in the garment industry, most exports are destined for only about 30 developed countries. Many of these markets are already close to the saturation point. For example, in the US, imports represent 75% of apparel consumption and 95% of shoe consumption.⁵ This suggests that there is very little room for any further export growth in these sectors. As a result, garment manufacturers find it increasingly difficult to enter Western consumer markets⁶ and are thus forced to lower their prices in order to remain competitive (Merk, 2003).

A campaign strategy on these issues might be difficult to design; how, for example, do you fight deflation? However, pursuing these systematic issues remains essential. Possible areas to research would be: how to pressure industry leaders further; how to raise these issues with discounters and price fighters such as Wal-Mart, Aldi et al.; or how to understand these issues in light of the post-MFA situation.

Managerial solution versus workers' empowerment

Fair purchasing practices *should* be an important part of any code implementation programme. Having said this, it may be difficult for the CCC to develop more concrete solutions for improved commercial relationships between buyers and suppliers. Think of the complexity involved in deciding what would actually be a fair price. Also, prices are influenced by the types of machinery used, macro-costs associated with country of production, overall efficiency of the factory-management, among other factors.

Making fair purchasing practices a *core* demand of campaigning is risky in that it is basically a top-down approach in which buyers are supposed to take the initiative. This would mean insisting on a managerial solution for labour problems. Prioritising Freedom of Association and Collective Bargaining is probably far more efficient in enabling workers to negotiate a 'fair' price for their activities. It is thus necessary to start from the bottom up – from the perspective of the workers discussing what actually needs to be changed in order for conditions to improve. This, according to Monina Wong of HKCIC, would mean 'spelling out principles which are radically different from those that determine present practices. Purchasing practices must be defined through mechanisms which involve the workers concerned directly'.⁷ Otherwise, one runs the risks of workers becoming a passive object of regulation instead of active subjects involved in defending their own rights.

Brands versus non-brands

The real price fighters are often *not* brand-name companies but non-branded corporations, such as certain kinds of retailers. Wal-Mart is probably the most important example in this area. These companies with their generally very weak codes of conduct and company-controlled systems of monitoring, are increasingly becoming the important players. Campaigners need to think of new ways to deal with these types of price fighters. At the CCC Sofia workshop it was concluded that there needs to be more analysis of these price fighters and less focus solely on brand names.

The Play Fair at the Olympics campaign

The issue of addressing purchasing practices was an important aspect of the Play Fair at the Olympics campaign. The Play Fair at the Olympic campaign made the following recommendations concerning brand-named sportswear companies (see 2004: 67):

- 'Integrate labour-practice policies with current purchasing practices, to prevent the latter from undermining the factories' ability to meet labour standards. This existing tension should be resolved in an integrated way with the factory, buyers, and merchandisers and those responsible for the ethical policy of the company'.

- 'Ensure that labour standards are a key criterion when selecting suppliers – alongside indicators of price, time, and quality. Current suppliers should continue to be given support in ensuring that conditions improve in their workplaces'.
- 'Stop demanding unrealistic delivery lead-times from suppliers where they result in abusive and exploitative conditions for workers'.
- 'Negotiate a fair price with the supplier; one that reflects the true labour costs of production and allows the supplier to meet ethical labour standards, including fair labour working hours, payment of a living wage, provision of stable employment contracts, payment of social security, and provision of healthy and safe working environment'.
- 'Develop more stable long-term relationships with suppliers and factories, enabling the latter, in turn, to engage more stable workforces on fairer terms'.

Purchasing practices and the Play Fair at the Olympics campaign

In hindsight, it is interesting to recall how two of the companies highlighted in the campaign responded. Umbro's view was that the lack of integration between ethical commitments and purchasing practices is not an issue in its business because the company has to plan its kit production at least one year in advance.⁸ A similar reply came from Puma, which told the Play Fair coalition that it aimed to build long-term strategic partnerships with suppliers and that 95% of the company's required capacity was placed a year in advance.⁹ It further stated that in discussions about a suppliers' capacity to meet Puma's orders, working conditions are taken into account. Nevertheless, the company was aware of the problem and conceded that it would be useful to consider developing standards related to ethical purchasing practices for itself and the sector as a whole. Puma agreed to share their thoughts on this matter with the Play Fair coalition,¹⁰ and to this end, research was currently being undertaken on the connection between successful code implementation and purchasing practices.¹¹

The issue of purchasing practices was also raised in the Programme of Work. Here the Play Fair coalition called upon the industry to undertake a joint ILO investigation with a goal of publishing a set of recommendations in relation to lead times and schedules, unit prices, capacity planning and their impact on working conditions'.¹² The Fair Labor Association (FLA) indicated that they would support the results of such a study.

With regard to purchasing practices, it was significant that the other companies highlighted in the campaign – Asics, Fila, Lotto, Kappa, and Mizuno – have thus far chosen to ignore the recommendations on purchasing practices. Thus, the two companies that did respond – Puma and Umbro – maintained that in their view there is no real issue at stake here, although Puma still seems willing to take a closer look at

this issue. The problem is that campaigners have very few tools at their disposal to verify whether Puma's and Umbro's statements on these topics make any sense. A survey among Puma's suppliers indicated that 42% responded *no* to the question of whether there is a conflict between S.A.F.E. standards (Puma's code) and buyer's requirements, while 9% responded *yes* and 49% *sometimes*.¹³

It must be said that while purchasing issues did play a rather prominent role in the Play Fair report, its importance was somewhat downgraded during campaign lobbying. Gradually, more emphasis was placed on the other campaign recommendations. We could pose the questions of why this was the case and why did it turn out to be so difficult to approach companies on this issue?

Demanding greater transparency

One problem with purchasing practices is that campaigners have little access to crucial information on these issues. There is no doubt that buying companies will do everything possible to prevent this information from leaking out to the public. However, we should demand greater transparency in order to get more insight into how production chains work

Increased clarity on prices and profits along the chains offers the opportunity for distant actors (workers and consumers, for instance) to see what actually happens elsewhere along the chain. For example, more information on these issues might help workers to get a better grip on what their employers' real financial situation is. This information would then need to be linked to the unions and labour groups located along the chain.

At the CCC Sofia workshop, someone suggested looking into the possibilities of pursuing a traceability law to ensure greater transparency along the supply chain, where, for example, each label would have a number. There has been some history with traceability laws in the US and Canada. Others doubt how much increased transparency will actually help in the addressing of bad purchasing practices. However, this could be an area to look into.

Building solidarity linkages

One possible entry point would be the building of solidarity linkages between factory workers located at the point of production and retail workers located at points of consumption. Retail workers often face increasingly difficult working conditions, particularly when they are employed by price-fighters such as Wal-Mart. Low wages, unstable or flexible contracts, and anti-union practices are common at places like Wal-Mart. However, retail workers, via the unions or workers council, may have the right to ask questions with regard to purchasing practices. Another possibility would be to facilitate workers exchanges between factory workers and retail workers.

Summarising remarks

There has been a growing recognition of the importance of how existing purchasing practices provide a barrier to code compliance. Explaining purchasing practices to consumers and raising the issue through campaigning is important. It is one way of showing how little workers often get in return for selling their labour powers. At the same time, the Play Fair at the Olympics has shown us that pressuring companies on purchasing practices is difficult. Although it has to be admitted that it was an important achievement of the Play Fair campaign that the issue was even brought to the table. Addressing purchasing practices is not only a very complicated issue; it also involves technical activities that bare little relationship to our daily activities. Getting access to credible data is very difficult. Therefore, there is an urgent need for more research on this topic.

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1 CCC, ICFT, Global Unions, Oxfam, 1 March 2004, 'letter', on file.

2 For an overview of these recommendations, see page 66 of the Play Fair report, <http://www.madeindignity.be/public/vetements/pdf/forum%20en.pdf>.

3 Anita Chan cited in *The Irish Times*, December 2002, 'The Hidden Downside of Santa's Little Helpers'.

4 Sum, Ngai-Ling, (2005), 'From "New Constitutionalism" to New Ethicalism': Global Business Governance and the Discourses and Practices of Corporate Social Responsibility', Paper prepared for the European Consortium for political Research Joint Sessions, Workshop 24: 'Transnational Private Governance in the Global Political Economy', Granada, Spain, 14-19 April 2005).

5 *Washington Post*, June 2002, 'There's Only So Much Foreign Trade Can Do'.

6 Evidence (of an anecdotal kind) for this can be found in newspapers on an almost daily basis. A manufacturer that once sold goods to American Eagle, Polo, and Kohl's departments stores told the *New York Times* recently: 'This year I have not been able to sell any goods to America at all. If I've not been able to do business with them, you can imagine the state of affairs with me'. Under these circumstances, William Mak, director of a Hong Kong based garment factory, also cited in the same article, noted that 'other factories, other countries are lowering their prices, so I can't keep my price.' [Cited in *New York Times*, 21 December 2002, 'Bargains are Plentiful for Shoppers these Season'].

7 Report of the Forum Play Fair at the Olympics, Brussels, International Trade Unions House, 21-22 April 2004 <http://www.madeindignity.be/public/vetements/pdf/forum%20en.pdf>.

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9 Puma – Play Fair at the Olympics, Communique, 22 June 2004: Meeting between Puma and Play Fair at the Olympics Campaign.

10 Ibid.

11 Letter Puma, 4 August 2004.

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13 Information gathered at Puma's Stakeholders meeting, 10 November 2004, Monastery Banz, Bad Staffelstein.