



The Consumer Council’s response to the ‘loyalty penalty’ super-complaint

Introduction

The Consumer Council is a non-departmental public body established through the General Consumer Council (Northern Ireland) Order 1984. Our principal statutory duty is to promote and safeguard the interests of consumers in Northern Ireland.

The Consumer Council welcomes the opportunity to contribute to the CMAs loyalty penalty call for evidence. The Consumer Council believes it is uniquely placed to respond to this review from a Northern Ireland consumer perspective. This is because of daily interaction with consumers alongside in-house research which closely examines the spending behaviours of consumers in Northern Ireland.

Trends, perspectives and needs of different groups

Firstly, there are considerable differences between the population of Northern Ireland and the population of Great Britain. Consumer education, confidence and interactions with financial services all have an impact on the loyalty penalty, and differences in these characteristics therefore have an effect on the severity and how many people are exposed to the loyalty penalty.

Figure 1 illustrates the differences in both UK and Northern Ireland supermarkets and mobile phone providers, both of which exploit some of their customers through the loyalty penalty. The fact that there are such stark differences in these, only strengthens the evidence that the demographics, providers and customer type are all different.

Figure 1: ‘Different Markets’

Issue	NI	UK	Source
Supermarkets	<ul style="list-style-type: none"> • Tesco: 34.4% • Sainsbury: 17.7% • Asda: 17.6% • Lidl: 5.2% • Other: 25.1% (Aldi/Waitrose/Morrisons do not operate in NI)	<ul style="list-style-type: none"> • Tesco: 27.9% • Asda:16.4% • Sainsbury:16.6% • Morrisons: 10.8% • Other: 28.3% 	Statistica 2017

Mobile phone providers	<ul style="list-style-type: none"> • O2: 60% • Vodaphone: 14% • EE: 10% • Tesco: 5% • Other: 6% 	<ul style="list-style-type: none"> EE: 39% O2: 22% Vodaphone: 18% Tesco: 6% Virgin Mobile: 6% Other: 9% 	Ofgem 2017
------------------------	--	---	------------

General research evidences that consumers are reluctant to switch providers for many reasons, ranging from the time poor individuals who have the ability and are willing to shop around for better deals, but just do not have the time, to the more vulnerable and less financially literate consumers, who may not have the ability or financial capability to effectively shop around.

A study undertaken by The Consumer Council detailed that nearly three-quarters of Northern Ireland (73%¹) worry about their expenditure, with rent/mortgage and home energy being the two biggest worries – rent/mortgage worries is higher among 16-34s (19%) and home energy among 65+s (19%). It could be possible that this proportion of society are affected by the ‘scarcity mind-set’ as mentioned in the Citizen’s Advice ‘The Cost of Loyalty’ report². The scarcity mind-set refers to the tendency for those who are worried about their financial situation to have less cognitive capacity to devote to other areas of their life.

Within Northern Ireland, two-fifths (37%) of customers have switched current accounts before³. Cash incentives was the top reason for switching, suggesting that behavioural nudges have a large part to play empowering consumers to not fall victim to the loyalty penalty. Service-related reasons were not far behind with 32% of respondents detailing they switched their current account due to bad service at their previous bank, again suggesting a more tangible/emotional outcome can act as a nudge for consumers to take action.

Within Northern Ireland, a similar proportion to the national average agreed that they like to keep a close eye on the money in their account (92% average v 93% Northern Ireland⁴). However 61% of those in Northern Ireland think that switching is too much hassle, and 47% are worried that if they change their account things will go wrong. These findings suggest to a certain extent, that consumer behaviour and perceptions of financial services, and switching, impact customers interactions and how susceptible customers are in falling victim to the loyalty penalty.

¹ Consumer Council/YouGov, Consumer Insight Survey, 2018

² <https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/consumer-policy-research/consumer-policy-research/the-cost-of-loyalty-exploring-how-long-standing-customers-pay-more-for-essential-services/>

³ Consumer Council/YouGov, Consumer Insight Survey, 2018

⁴ Consumer Council/YouGov, Consumer Insight Survey, 2018

Question 1: What are your views on the existence, impact and root causes of a 'loyalty penalty' for consumers across markets; including the five identified by Citizens Advice (mobile, broadband, savings accounts, home insurance and mortgages) and any others?

The Consumer Council supports competition and appreciates that, when effective, it can derive consumer benefit through encouraging competitive prices for goods and services. However this can, and has given rise to, the loyalty penalty, meaning some vulnerable consumers are in fact being made worse off by this concept. This is of concern to The Consumer Council as it is within our statutory remit to focus particularly on vulnerable consumers.

Existence:

As touched upon above, the theory surrounding the loyalty penalty can derive positive benefits for consumers. However increasingly, customers are being overcharged for services, presented insurance annual renewal quotes that are significantly higher than what they paid the year before, or are being offered significantly higher prices than those first joining the relative tariff. It is in these instances where the existence of the loyalty penalty causes problems.

The problems raised above are of particular concern in Northern Ireland as there are large differences in the financial landscape of consumers living in Northern Ireland and Great Britain. One in five live in poverty within Northern Ireland⁵, which is also home to the highest regional figures of those 'who don't use ATMs at all'; 16% against an average of 11% in the UK. These figures evidence vulnerability within Northern Ireland, where the existence of the loyalty penalty can exacerbate vulnerability.

Impact:

Ultimately, the impact of the loyalty penalty is one of two; either a customer will benefit through competitive prices from switching/joining a company, or a 'loyal' customer who's stayed with their service provider will be overcharged for a service they can find cheaper elsewhere. Impacts vary across different consumer types. For example, a more financially savvy customer may have the means and ability to shop around for a better quote before renewing their insurance, whereas a more vulnerable consumer may struggle with the process of shopping around and changing supplier.

The negative impact of overpaying for goods and services that arises from the loyalty penalty is no doubt detrimental to consumers of Northern Ireland who have an average income of 12.5% less than that of Great Britain (£25,999 and £29,079 respectively⁶). Low income consumers display behaviours and characteristics which mean that conversely they end up paying more for goods and services. Short term budgeting, resource scarcity and poor literacy

⁵ The Joseph Rowntree Foundation (JRF): Monitoring poverty and social exclusion in Northern Ireland 2016.ni_mpse_findings_2016_final (1).pdf

⁶ Consumer Council/YouGov, Consumer Insight Survey, 2018

can mean that the loyalty penalty has more of an effect on those in Northern Ireland, as a higher percent of their budget will be used to pay the loyalty penalty.

However, the potential impact of the loyalty penalty goes further than customers in Northern Ireland paying a higher percentage of their income towards the loyalty penalty, it can potentially exacerbate or create new debt. Almost 57% of the NI population has just £100⁷ in savings, leaving over half of the population vulnerable to income shocks. The average figure for the UK as a whole is 44%. An unanticipated increase in bills, fuelled by a loyalty penalty, alongside a poor credit history and lack of savings can force less well-off consumers towards expensive forms of credit. This cycle is well evidenced, and more often than not, ends up in higher levels of consumer debt.

However, as briefly mentioned above, the impact of the loyalty penalty can potentially result in consumers finding a better deal. This impact however relies heavily on the consumer being pro-active, confident and taking the time to engage with the market to find a better deal.

Whilst vulnerable consumers are at a disadvantage and may end up paying the loyalty premium, the premium is also affecting the wider population. Average customers lack the time needed to search for a better deal, some customers may miss the date for renewal or simply forget to shop around as everyday life duties take priority.

Root causes:

The loyalty penalty is integral to service providers through cross subsidisation. They are able to offer new customers discounted rates because they make up any losses through the prices that loyal customers pay.

When consumer markets are fully operational, and are working well, people's spending can enhance the economy's performance and create new opportunities. But when a market fails, these failures can be detrimental, especially to vulnerable consumers who are often the hit the hardest.

Question 2: Are there circumstances in which you think a 'loyalty penalty is not problematic at all or where it is particularly problematic, and if so why?

A loyalty penalty is not problematic when it serves its purpose of acting as a behavioural nudge to get consumers to shop around in order to find better deals. It can allow customers to find more competitive deals and ensures competition between providers in the market. In circumstances where the loyalty penalty results in effective competition, choice and lower prices for consumers (that is not at the detriment of other consumers), is when it is not problematic.

Our response to question 1, amongst other work, gives rise to the idea that perhaps, the penalty is not designed in the way it should be. There is evidence suggesting that the hardest hit consumers are those from vulnerable backgrounds, or those with none or little financial knowledge/confidence. It is these customers that the loyalty penalty creates a problem for.

⁷ Consumer Council/YouGov, Consumer Insight Survey, 2018

These customers are unable to effectively engage and therefore can end up paying the penalty. This is problematic from The Consumer Council’s perspective as it gives rise to unfairly treated customers, enhances or reinforces peoples vulnerability and can even increase debt.

Question 3: What specific additional challenges do vulnerable consumers experience and should there be additional protections?

Challenges faced by vulnerable consumers differ from consumer to consumer based on the nature of their vulnerability. Northern Ireland has a higher percentage of vulnerable consumers than the rest of Great Britain, figure 1 shows a breakdown against GB. Figure 2 also shows this picture in a bit more detail.

Figure 1: ‘Low income groups as percentage of population - NI v GB’

‘Low income groups percentiles NI V GB’		
Low income Group	As percentage of NI Population ⁸	Compared to GB⁹
Working age adults	14%	13%
Young people in poverty (16-29)	18%	17%
Pensioners	15%	14%
Private renters	17-20% of rental market share	19% ¹⁰
The economically inactive	34%	22%
Chronically sick/Disabled	24%	18%

Figure 2: ‘Vulnerability’ - NI v GB’

Issue	NI	UK	Difference	Source
Disability claimants (DLA or PIP)	11.3%	6.0%	+88%	DSD 2015

⁸ Office of National Statistics 2011 <https://www.nisra.gov.uk/statistics/2011-census/results>

⁹ Households Below Average Income 1994- 2016 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/600091/households-below-average-income-1994-1995-2015-2016.pdf

¹⁰How many landlords & tenants are there in the UK? <https://homelet.co.uk/letting-agents/news/article/how-many-landlords-and-tenants-are-there-in-the-uk>

No cash savings under £5,000	56%	50%	+12%	FCA 2018
Adults with savings less than £100	57%	44%	+30%	Money Advice Trust 2017
Over-indebtedness	20%	15%	+33%	FCA 2018
Low understanding of financial issues	24%	17%	+41%	FCA 2018

High confidence in managing money	26%	37%	-30%	FCA 2018
Households in Mortgage Arrears	6%	3.4%	+76%	FCA 2018
People without Bank Account	10%	4%	+150%	The Consumer Council 2016
Average Personal loan (adult)	£1,109	£745 (GB)	+49%	UK Finance 2017

It is very much likely that the challenges faced by vulnerable working age adults will be incredibly different to those being faced by the chronically sick/disabled portion of the population.

General additional challenges faced by vulnerable consumers, but not limited, are as follows:

- Lack of access to means of switching – this could be due to geography (not living in an area in Northern Ireland where you have signal to get online), income (unable to pay for internet access, cannot afford to get a bus into town on x date)
- Information overload – if a vulnerable consumer does have the confidence to switch providers in order to no longer pay the loyalty premium, it's likely that they will go online and be overwhelmed by the sheer amount of information displayed on screen. An insurance policy for example, has many components and prices, a customer may

not have the time, patience or financial knowledge to be able to select a suitable product and as a result, become disengaged

- Confidence – this is something that can affect both vulnerable consumers and others. Behavioural economics research largely suggests that people are sceptical of changing providers and think their service may change if they change providers. The results of our YouGov 2018 survey echo this.
- Misleading providers – through language and communications, providers can be unclear, this is a challenge for vulnerable consumers who may not be able to understand them or keep up. Alternatively customers may choose the easiest option to make a quick decision, this option however, may not be best for them.

There should be additional protection mechanisms that providers in these areas should follow. Some protection mechanisms that should be put in place are as follows:

- Long term providers (or providers where the loyalty premium is highest amongst vulnerable consumers) could offer their vulnerable customers a courtesy call before renewal, highlighting price differences, renewal date deadlines and so on.
- Intervention in these areas that are similar to that of the April 2017 implementation in the general insurance sector that requires firms to now show the insurance premium a customer paid last year alongside their proposed renewal income, with guidance to shop around. Something similar could be required for all firms offering a similar service (broadband, mobile phone contract etc.).

Question 4: What measures to tackle any 'loyalty penalty' should be considered, including those suggested by Citizens Advice and any others? Please explain how these measures would effectively address the problem?

Measures that The Consumer Council believe should be considered are as follows:

- **Regulators should consider safeguard tariffs and investigate 'best deal' defaults for vulnerable consumers.** As explored in the suggestion by Citizens Advice, vulnerable consumers struggle to look around, and are often sceptical about switching providers. Introducing a requirement on providers to firstly identify their vulnerable consumers, and secondly to offer vulnerable customers their most competitive deal.
- **Policy makers/regulators should work together to undertake more rigorous research into the loyalty penalty and then develop a common approach to ensure vulnerable groups do not end up on bad deals across essential markets.** If regulators identify that common solutions are appropriate across markets – like safeguard tariffs – data sharing should not be a barrier to protecting consumers. However, given the cross-cutting nature of the loyalty penalty, bespoke solutions are needed in each market.
- **Advertisements - they should not be misleading, display prices (and relevant breakdowns) and policies (T&Cs) clearly.** A study conducted by YouGov and The Consumer Council revealed that seven in ten of Northern Ireland adults do not know what rights the Consumer Rights Act 2015 gives them when buying goods and services. Service providers need to make their policies, terms of reference and terms of

conditions (and other similar documents) very clear to customers. Not only this, but customers should then be able to easily access these documents so that they can make necessary changes or review their documents at their leisure. A good example of this can be seen in the Insurance Distribution Directive (IDD), which stipulates that all insurers must give customers the option of receiving a hard copy of their policy. This can prove incredibly useful and will allow customers to review documents in their preferred medium in their own time.

Whilst responding to this call for evidence, the Consumer Council did some open source searches based on verbal evidence we have heard in the broadband sector. We found that providers such as BT are not as clear as they can be when presenting deals and distinguishing if these deals are for new or existing customers. Alongside opaque pricing, language should be reviewed, 'standard' suggests perhaps the best value tariff, but usually these are not cost effective for consumers or meet their needs. This is in line with comment made by Citizens Advice on how the language used by providers can lead consumers to form an inaccurate impression of the product or service they are signing up for. Labelling and language should be user tested and consistent across the market.

- **Advertisements should consider time limits placed on consumers and be designed/navigated in such a way that encourages effective decision making, whilst still considering consumer behaviour.** Price comparison websites and service providers alike should consider how much time and resource customers are using when searching for the service in question. They should also ensure that their website/medium of use is clear, concise and jargon free. There has been work on ensuring that customers are better able to interact and understand terms and conditions better, however nothing similar has been done in the advertising space. Policy makers/regulators need to identify how long it should take for a customer to come to a rational decision and compare this to how long customers actually take, and whether or not the outcome they arrive at is best for them.
- **Providers should be clearer and send effective communications (in the customers preferred mode) when a contract is due to end, when prices change and should follow up in due course if the customer does not engage with them.** Currently the stance on the loyalty penalty is that customers are being trapped in contracts and over paying, however if service providers are able to effectively engage enough with their customers then this might change.

Providers need to engage more effectively with their customers to eliminate this problem. Finding out what changes the consumer wants to know, what is their preferred mode of contact and when they would like to know this? Providers need to make the effort to contact customers effectively if there is any change to their service that the customer should know about. Notifications should be allowed to be customised to each customer, so that those who do not want to know can actively

choose to opt out, or only receive notifications about a certain change (e.g. price changes). Providers could also use this tool to recommend other more suitable products to customers.

- **Barriers to exit should be reduced so people can switch more easily.** Much like what was suggested by Citizens Advice, providers should commit to consistency, meaning they should ensure the same method used to enter a contract is available to customers who want to exit. Regulators/policy makers should be doing more in this space to identify the barriers and how they affect each customer.