

CMA publishes loyalty penalty update

The Competition and Markets Authority (CMA) investigated the loyalty penalty – where companies penalise longstanding customers by charging them higher prices than new customers or those who renegotiate their deal – in response to concerns raised by Citizens Advice in a super-complaint.

In its December 2018 report, the CMA uncovered bad practices by firms in the 5 markets highlighted by the super-complaint: mobile phone contracts, broadband, household insurance, cash savings and mortgages. These included continual year on year price rises, costly exit fees from contracts, time-consuming and difficult processes to cancel contracts or switch to new providers, and auto-renewal policies that switched unsuspecting customers onto more expensive contracts, often without sufficient warning.

In its response to the super-complaint, the CMA made a number of recommendations to Ofcom and the Financial Conduct Authority (FCA), the regulators that govern these sectors, and government to help them better protect consumers. It also launched its own investigations examining auto-renewal practices in two sectors.

Today's report provides an update on the progress made by regulators one year on, and highlights areas where it expects to see further and more timely action.

Updates include:

Mobile:

Ofcom has made progress in this market. It has introduced new rules, which come into effect from February, on end of contract notifications and annual best tariff notification. This will mean that customers will be told when their contract is coming to an end, and shown the best deals available, including SIM-only deals. As well as this, almost all of the major mobile phone providers have committed to reduce bills for people who have paid off their contracts in full. As part of this, the regulator has asked providers to agree to voluntary commitments to tackle the issue of customers continuing to pay a higher rate once their handsets are paid off. Whilst these are all positive steps in the right direction, the CMA is concerned that only two providers, Virgin Mobile and Tesco Mobile, have agreed to fully address its concerns about customers still paying a higher rate once handsets are paid off. And major provider Three has not agreed to offer any commitments at all. Ofcom plans to monitor how successful the commitments are and the CMA looks forward to the findings of this review.

Broadband:

Similar to mobile, Ofcom has introduced new rules to ensure customers will be told when their contract is coming to an end and shown the best deals available. Again, these come into effect from February. Ofcom has also

secured voluntary commitments in this market. Some providers have promised to carry out annual price reviews for vulnerable customers to check they are on the best deal. Others have committed to reduce the difference between the monthly prices paid by new, or re-contracted customers, and those who are have finished their contract. Whilst this is a welcome step, more is required. Ofcom is planning further work and will report in the coming months.

Insurance:

The FCA published its interim findings report in October 2019, identifying that insurance markets are not working well for consumers and discussing a range of solutions that it could introduce. These possible solutions include requiring firms to automatically move consumers to cheaper equivalent deals. The CMA supports the FCA's approach to these issues, which build on its principles for healthy competition. It believes that the FCA's proposed solutions have the potential to address the loyalty penalty and looks forward to the final report in the early part of 2020.

Cash savings:

In a recent consultation paper, the FCA has set out proposals for a single easy access rate that would mean longstanding customers get the same rate as those who have recently finished an introductory offer. The CMA welcomes this and is pleased that a clear timetable has been set out for implementing any new rules and assessing their impact in a speedy way.

Mortgages:

The CMA is aware of FCA research on mortgage switching but would like to see swift progress in developing ways that help or protect longstanding customers who could switch but do not. It would also like to see a clear timetable for implementing these.

Alongside its scrutiny of regulators, the CMA is progressing its own investigations to find out whether longstanding customers are losing out as a result of potentially unfair roll-over contracts. It is looking at how these are used by big companies like [Nintendo, Sony and Microsoft](#), as well as firms that supply [anti-virus software](#). An update is anticipated in early spring.

The CMA also continues to call on the Government to bring forward its promised Consumer White Paper and, with it, the extra powers to help the CMA to act even more decisively on behalf of consumers and fine firms that break the law.

Andrea Coscelli, CMA Chief Executive, said:

Just over 12 months ago we reported that people were being over-charged by around £4 billion a year in essential markets. It is important practices that aid this are stamped out and we're pleased to see progress has been made in helping to stop people being penalised for their loyalty.

But more still needs to be done to make sure that loyal and, in some cases vulnerable, customers are not let down or ripped off. We urge the regulators of the industries under scrutiny to keep up the pace, and we will continue to monitor their progress.

For our part, our enforcement action on auto-renewal practices in certain sectors continues, and we call on the Government again to give us the extra powers promised last year to fine companies that we find are breaking consumer protection law.

You can read the report on our [loyalty penalty case page](#).

A further CMA update report following up on the progress made is also planned by July.

Notes to editors:

1. The CMA is the UK's primary competition and consumer authority. It is an independent non-ministerial government department with responsibility for carrying out investigations into mergers, markets and the regulated industries and enforcing competition and consumer law.
2. In June 2019, the Government announced that it will consult on giving the CMA new powers to fine businesses who have broken consumer law directly (ie without the need to go through a court). It also [announced that it will legislate to give regulators, such as Ofcom and the FCA new powers](#) to stop longstanding customers being taken advantage of if their existing powers are insufficient. In addition, [the CMA has also proposed wide-ranging reforms](#) to strengthen our consumer enforcement and our market study/investigation powers so that we can more effectively investigate and take action against firms on these and other types of issues. We will continue to work with the new Government to take forward these reforms and potential changes to clarify laws around unfair renewals.
3. We also welcome the Government's previous commitment to legislate for civil fines to be available where companies break the law. We look forward to working with Government on how to achieve a direct enforcement model, where the CMA (and potentially other enforcers who wish it) are empowered to decide whether consumer protection law has been broken and to impose fines directly.
4. The Enterprise Act 2002 (the Act) makes provision for designated consumer bodies to make super-complaints. Citizens Advice is a designated consumer body.
5. Enquiries should be directed to press@cma.gov.uk or 020 3738 6460.
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