



CCWater's response to the CMA investigation into the 'loyalty penalty' super-complaint

Introduction

1. The Consumer Council for Water (CCWater) is the statutory body representing the interests of household and business customers of water and sewerage companies and licensed retailers in England and Wales. We operate through four Committees in England and a Committee for Wales.
2. In September 2018, Citizens Advice submitted a super-complaint to the Competition and Markets Authority (CMA) asking it to investigate the 'loyalty penalty' in essential markets (i.e. mobile, broadband, savings accounts, mortgages and household insurance). The CMA will be investigating concerns that customers who stay with their current provider can end up paying significantly more than new customers.
3. The Water Act 2014 led to the opening of retail competition in England for eligible non-household (NHH) customers in the water and sewerage industry on 1 April 2017. Since then most businesses, public sector organisations and charities have been able to choose who provides their water and sewerage retail services.
4. Whilst the water retail market for businesses in England is relatively new, customers could potentially face a 'loyalty penalty' in the future like they do in other sectors.
5. CWater welcomes the opportunity to submit our views to inform the CMA as it investigates the 'loyalty penalty', which Citizens Advice says can harm the interests of consumers of other markets.

General comments

6. Whilst there is currently no competition for household customers in the water industry, NHH retail customers could potentially be affected by a 'loyalty penalty' in the future.
7. Currently all water and/or sewerage retail service providers (retailers) are required by legislation to provide default tariffs. These tariffs cap the charge at a level which matches the charge that would have been available to NHH customers ahead of the retail market opening in England. Therefore, if a NHH customer does not exercise its right to switch retailer, then that customer would be paying no more than when it received services from a water and/or sewerage company (factoring an adjustment every April to reflect price controls set by the water regulator, Ofwat). In this way, default tariffs protect NHH customers who do not switch retailer and/or negotiate a new deal with their current retailer.
8. However, as the water market matures, customers who are unaware of their choice, or fail to engage in the market may miss out on benefits and could, in effect, end up paying a 'loyalty penalty' if they are charged more on a default tariff than more engaged customers who have sought a better deal by switching or negotiating.

9. In its review¹ of the first year of the retail market, Ofwat state that, "...on average retailers offered customers who switched or renegotiated around 3% savings, relative to 'default tariffs' that retailers are required to offer their customers who have not switched. Some large users have saved up to 6% from tendering".
10. Research² carried out by CCWater in July 2018 revealed that over half of small businesses (SMEs) still did not think they could switch water retailer. This is considerably better than in 2016 when fewer than one in ten SMEs were aware that competition was coming to the water market. However, our research shows that awareness has stagnated over the last 12 months and the smaller the business, the less aware they are. When asked more specifically about the water market, only a quarter of SMEs clearly understood that choice related only to retail services, including billing, meter reading and customer service.
11. The risk to NHH water customers of a 'loyalty penalty' becomes even greater if:
 - Default tariff regulation is withdrawn by Ofwat as the market expands over time, which may cause the price for non-negotiated contacts to increase;
 - awareness levels in the open retail market in England do not continue to increase, particularly for smaller NHH customers; and
 - more competitive deals become available for NHH customers who are active in the market.

Response to specific questions

Q1) 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?

12. Whilst we cannot comment on the five markets identified by Citizens Advice, in the water and sewerage retail market for businesses in England, a 'loyalty penalty' could arise if NHH customers stay with their current retailer because of:
 - lack of awareness of the market,
 - lack of time in which to negotiate a better deal or service,
 - lack of trust in the market itself, including the switching process, and
 - the 'hassle factor' versus the current small savings available.

¹ [Open for business: Reviewing the first year of the business retail water market - Ofwat - July 2018](#)

² [Small and medium-sized enterprise awareness of non-household retail water market choices - CCWater - August 2018](#)

13. Awareness of the water market has increased, but even customers that are aware may not engage. Our research shows that lack of time is a factor with around one in ten SMEs saying they were unlikely to switch or renegotiate for this reason. Other inactive SMEs think there just aren't enough savings to be make switching worth the hassle. Nearly one in five SMEs said they were unlikely to switch or renegotiate because they are satisfied with the price they pay their existing retailer. And around ten percent would stay with their existing provider simply due to familiarity.
14. As the water market for businesses matures and expands, we are concerned about the possibility of a 'loyalty penalty' emerging and harming the interests of water customers who do not shop around for the best deal on offer.

Q2) 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?

15. The issue of a 'loyalty penalty', could be mitigated where default tariffs are set at a level which protects customers, not only at a level of previous price arrangements before a market change (like those currently offered in the water retail market) but that also challenge discounts being offered to switchers.
16. We believe that SMEs (e.g. small businesses and charities) are particularly likely to end up paying a 'loyalty penalty' because of the factors described in our response to Q1.

Q3) What specific additional challenges do vulnerable consumers experience and should there be additional protections?

17. In this particular super-complaint, Citizens Advice has focussed on vulnerable household customers. Such customers would not currently be affected by a 'loyalty penalty' in the water industry as competition has only been introduced for businesses.
18. However, our research shows that smaller businesses are less informed, more time poor and less likely to engage in the market compared to larger businesses. Micro and small businesses that may not be aware of their choices, or not have the know-how or time to research the best price and/or service offering are at a greater risk of exposure to a 'loyalty penalty'.
19. Ofwat has produced a Customer Protection Code of Practice³. This provides extra protection for micro-businesses in terms of contracts. Therefore, should a 'loyalty penalty' become an issue in the water industry, it may be necessary to widen the extra protections offered to micro-businesses.

³ [Customer Protection Code of Practice for the non-household retail market - Ofwat - March 2017](#)

Q4) 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.

20. In its super-complaint, Citizens Advice cite prior reforms to address a 'loyalty penalty', which it calls demand-side regulation, as having, "...sometimes had positive impacts, and its regulatory design and testing has improved over time, [whilst] it has not led to significant market changes". These include measures to increase customer awareness, increase switching rates and reduce the costs of switching. It goes on to add that more sophisticated measures of 'disclosure remedies' have had the highest response rate, such as energy companies being required to provide cheaper tariff messages on customers' bills since 2013, and the Current Account Switching Service to enable the swift transfer of current accounts.
21. We believe that keeping customers informed of their choices on bills is a positive step. We are supportive of water retailers that have clear messaging to customers that there is a competitive market and direct customers to further information or advice (e.g. Open Water website, CCWater).
22. An effective and efficient switching process that customers have confidence in is important. We are working with Ofwat, the market operator, MOSL, and other key market participants to ensure market mechanisms that facilitate switching are operating well for customers.
23. Finally, we note that Citizens Advice welcomes Ofcom's consultation on introducing fairer default tariffs to prevent customers being charged for a handset after the minimum contract term must come to an end in the mobile market. CCWater has long argued that water companies ought to be clear to customers about what services they are or are not being charged for. We also support the setting of default tariffs to protect customers.

Enquiries

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