



BEIS DOMESTIC ENERGY RETAIL CONSULTATION: OPT-IN SWITCHING AND TESTING OPT-OUT SWITCHING

OCTOBER 2021

[Fair By Design](#) welcomes the invitation to respond to BEIS' consultation on opt-in switching and testing opt-out switching.

Please note that we consent to public disclosure of this response.

For more information about this response, please contact Carl Packman:
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ABOUT FAIR BY DESIGN

Fair By Design is dedicated to reshaping essential services, such as energy, credit and insurance, so they don't cost more if you're poor.

People in poverty pay more for a range of products including energy, through standard variable tariffs; loans and credit cards with higher interest rates; and expensive insurance premiums, by living in postcodes considered higher risk. This is known as the poverty premium.

We collaborate with industry, government, and regulators to design out the poverty premium.

Our Venture Fund provides capital to help grow new and scalable ventures that are innovating to make markets fairer.

The Barrow Cadbury Trust runs our advocacy work, and Ascension manages the Venture Fund.

We have responded to questions 1-6, 14, 21, 23-35, and 43-45

Q1. Are there any other measures you think the Government should consider to help address the factors that have caused a loyalty penalty?

Firstly, we agree with the assessment that is stated at the start of this consultation that addresses how suppliers find particular customers unattractive:

“There is a competitive tier, where energy suppliers are competing to attract engaged consumers to their business. In general, competition first focuses mainly on price, with other features such as the ‘green-ness’ of the tariff and customer service also key points of differentiation. However, this tier is the minority of the market, with less than half of consumers regularly shopping for a better deal and switching tariff. In this two-tier market, many of those consumers who do not regularly switch were charged significantly more than the efficient cost to a supplier of serving them, allowing the supplier to either earn excess profit on their tariff, or to continue to operate inefficiently.”

This is something that needs addressing. Automatic switching will play a big part in the solution to this problem, in our view. There are multiple reasons for why switching is not possible for consumers (listed below). Beyond that, there are legitimate reasons for why switching energy providers is difficult for people, owing to where switching takes place (primarily online), to the ways in which people understand the information they are given. Because we know this, consumers should have the right not to be penalised if switching is not something they are able to do. Yet, as the consultation states, the reverse is happening; people are being penalised on price for not switching. This foregrounds our views in the rest of this consultation.

In the consultation paper, it is stated what the causes of loyalty penalties are. They are:

- Barriers to market information and engagement
- Perceptions that shopping around can be very time and cognitively consuming.
- Misconceptions of supply risk.
- For those only engaging without using the internet, independent sources of information are limited and not well known.
- Many customers do not have confidence in the results generated by PCWs.

In our paper on the poverty premium¹ we identified other causes. We identified:

- Disillusionment with energy suppliers (p.24)
- A feeling that the system was unfair (p.24)
- Cynicism about the monetary savings gained through switching (p.24)
- Concerns about unforeseen shocks if a person switched provider (p.25)
- A lack of trust with all suppliers, due to suppliers exiting the market (p.25)
- Low skills required to make an informed choice to leave a supplier (p.26)
- Digital barriers including digital exclusion and low digital confidence (p.26)

¹ <https://fairbydesign.com/wp-content/uploads/2020/11/The-poverty-premium-A-Customer-Perspective-Report.pdf>

- The (perhaps erroneous) feeling that loyalty was still being rewarded (p.26)
- A concern that a person's credit score affected their ability to switch supplier for a better deal (p.27)
- A feeling that housing tenure (e.g. being in the private rental sector) meant that supplier switching was barred (p.28).

Throughout the consultation paper there is information that tells us how the price cap does not address the underlying causes of the loyalty penalty pricing. We agree. Instead we are told that more information and easier ability to switch providers is the solution, and opt in and opt out switching can spur this on. However, as we comment above, there are multiple reasons why people are not switching. We do not think that better information is the solution since this presupposes that understanding the market from a consumer perspective is the barrier. Instead, the reasons for bad outcomes for many consumers relates to the affordability of household energy and customer service needs of consumers.

In our view, being able to opt in to a programme where the switching activities are carried out for the consumer is positive. Done correctly, this would provide the consumer with more guarantees that they were getting the service they require at a price that suits them, with little friction or effort.

We support this move, not because it increases the amount of information people will have about energy suppliers, but because it gives consumers a better opportunity to get an energy deal that works in their best interest. Removing the burden away from consumers in reaching this goal.

In an ideal market, we would like to see opt-out switching for consumers on the grounds that it takes away some of the work from consumers in guaranteeing a better price and meeting customer needs. We accept that suppliers are always likely to know more about what tariffs a consumer might need (based on their household situation) because suppliers will always have more information than consumers. They will also have the time and ability to access and understand that information easily. This does not take away the need for price protections. Consumers still need to be sure that the price they pay for their household energy is fair and affordable. An opt-out switching arrangement over time will help them access the best deal, with the least effort, within a wider regime of price protections to ensure no one pays more than they should for energy.

Q2. Do you agree with the proposed scope of tariff targeting?

We understand the preferred option to be based on who Ofgem considered be considered 'disengaged' for their previous work. The definition being:

“a disengaged consumer was someone who had been with a supplier on a default tariff(s) (non-fixed term tariffs or tariffs they had been automatically placed on) for three years or more”.

We agree with this as a starting point for the scope of tariff targeting.

Q3. Which consumers do you think are more likely to be disengaged with the retail market, for instance due to their circumstances or duration on a default tariff?

Q4. Do you think that an opt-in switching scheme should focus on, or prioritise, targeting consumers who have been on a default tariff for longer durations? Please specify if you think any particular duration is appropriate.

We have taken these questions together.

Information in this consultation paper describes how low income energy consumers are the most likely income group to be “disengaged”. One of the ways energy consumers engage in the market is through price comparison websites and Ofgem found in 2019 that those “on low incomes or from a lower social grade were also significantly less likely to use price-comparison websites (PCWs) when switching”.

On the grounds that these trials should be about ensuring consumers are paying a fair and appropriate price for their household energy then it is only right that the trials should prioritise low income consumers and those most at risk of paying the loyalty penalty. While many consumers might be exposed to loyalty penalties in their lives, low income consumers stand to suffer the most as a result of such penalties. These consumers often have less financial resilience to deal with such penalties. The trial focus should reflect this.

We go into more detail on those customers most likely to be “disengaged” with the energy market, with particular protected characteristics, in question 43 and 44 below.

In response to this particular question, we have also reflected on the following information given in the consultation paper:

“Looking back to the market information and engagement barriers in section 1.2, there are greater barriers for digital excluded consumers or those who don’t trust PCW comparisons. 75% of switches made in the Collective Switch trials were made through the PCW’s helpline. To have the greatest impact, the scheme could prioritise offline customers. There is also evidence of more limited competition in this segment, so running competitive processes for these consumers could stimulate cheaper offerings to this segment.”

Given what we know about how digital exclusion impacts engagement, and how digital capability benefits those seeking better deals on their energy, we think groups who are disengaged by virtue of their low digital capability should be prioritised. Fair By Design works with Toynbee Hall (an advice charity in the East End of London) to design social policies, regulatory policies, and services with those who are considered harder to reach. We extend an offer to BEIS to work with us in order to better understand the particular needs of those that are often excluded from digital services and how we can better create services fit for their needs.

Q5. Do you agree that an opt-in switching scheme should not target consumers based on the price they pay for their existing default tariff?

We know from the consultation paper “that consumers who are paying the most on their default tariff are experiencing the greatest loyalty penalty.”

“However”, the paper continues, “our aim for this scheme is to remove the barriers to market information and engagement for consumers who are currently disengaged with the market. Practically, focusing on price adds significant complexity to targeting decisions, as a complex contestable judgment is required on the “appropriate” price.”

We do not agree. We think one of the main advantages of opt in switching trials will be to ensure that consumers pay a fair and affordable price for their energy. It is not just about removing barriers for information. As we have said above, removing barriers to access to information is only half the problem. Instead, we need to make sure that people who cannot switch for legitimate reasons are not penalised for doing so. That penalisation is often on price. Therefore, we feel that targeting should be on price for the trials of opt-in switching.

Q6. Do you agree that an opt-in switching scheme could be effective at creating new competition and market engagement in the PPM tariff market? Are there any PPM market considerations we should take into consideration?

As the paper says: “In PPM market, more than 90% of customers are on default tariffs, according to Ofgem’s 2019 State of the Market Report. Because of this, the vast majority are paying more, a loyalty penalty, than they would be in a competitive market.”

The paper goes on to say: “with the use of auctions (or other competitive processes), this prospect could facilitate significant competitive behaviour between suppliers to offer competitive prices to consumers. We therefore think there would be particular merit in targeting the scheme at PPM consumers.”

We would welcome more competition for PPM consumers on the grounds that these consumers often pay the most for their energy, are among the consumers least able to afford it (the poverty premium), and have the fewest options for switching. This scheme should help engage suppliers in finding fair and affordably priced solutions for these consumers. But there should also be other market interventions to ensure PPM customers get a good price as well, not just switching. An effective price cap that ensures for fair and affordably priced energy should sit alongside these trials.

Q14. Please provide views on the consumer protections we are considering. Are there other protections that we should consider?

At the moment, the consultation paper considers the risk of customers losing access to the warm home discount. It also notes that the design of the scheme must consider those who are digitally excluded. We agree that these things should be considered. It is vital that those eligible for schemes do not lose them in a scenario where they are switched suppliers

automatically after opting in. These protections go beyond what is in scope for the warm home discount consultation for 2022-2025/26. So additional protections need to be considered by BEIS.

Q21. How might the opt-in scheme be designed to help facilitate reaching the UK's 2050 net-zero target?

At the moment the consultation paper states: "Through encouraging consumer engagement with the market and energy, which will likely be necessary for uptake of decarbonising services and products, opt-in switching could also assist reaching the UK's 2050 net-zero target. As the scheme is developed, we plan to further consider how its design may be able to directly help assist reaching our net-zero target, but we would be interested to hear any ideas from stakeholders."

We agree. However, this should not just be about providing more information per se. Instead, this should be about ensuring that those consumers who are not able to switch suppliers and engage in the market for legitimate reasons are not penalised. This principle also has relevance in considering consumers' needs when the market changes in the transition to decarbonisation.

Q23. Do you agree with our proposed approach to targeting? Are there any particular segments you think the testing should focus on or exclude?

We agree with the following, which is the current proposal: "the framework should allow testing to be targeted at all default tariff consumers (including those who initially actively chose to be on a SVT), as they are all at risk of a loyalty penalty and there may be merit in understanding the consumer experience across consumer segments. But in the design phase there should be consideration about whether testing should only focus on a subset within this scope."

Q24. Do you agree with our assessment of the PPM market and proposed approach of keeping PPM within the testing framework's scope, and assessing closer to implementation whether PPM consumers should be targeted?

The consultation paper states: "whilst there is so little competition, testing may not be able to produce significant savings for any targeted PPM consumers ... If the testing is not able to offer a significant saving it will not be able to test the measure very effectively. Therefore, targeting PPM customers may not be a useful focus for testing."

In spite of this, we feel PPM customers should still be in scope for these trials. If at the end, PPM customers are not enjoying improved outcomes then this should be grounds to identify other interventions that can improve them. In fact, work should be taking place already to identify what the problems are that cause barriers to competition in the PPM market, and

how we can improve outcomes for PPM customers.

Q25. Do you agree that the testing should target a subset of suppliers? If so, on what basis should those suppliers be selected?

We have no strong views on this question. We do however, feel that a cross range of suppliers by size should be considered to give the best possible results of the tests.

Q43. Do you have any evidence that may improve our understanding of how these measures may impact consumers with different characteristics? For instance, given that we propose for these measures to target disengaged consumers.

Q44. How could we design these measures to better:

- a) **eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010**
- b) **advance equality of opportunity between people who share a protected characteristic and those who do not; and**
- c) **foster good relations between people who share a protected characteristic and those who do not.**

We have taken these questions together.

We carried out work with the University of Bristol² to find out how switching (or not switching) affects different people based on their protected characteristics. We found for example:

By age: “In 2016 only, those under 35 were, perhaps surprisingly, more likely than the older groups to have never switched provider. They are likely to have spent less time in a position where they were responsible for paying bills, and are more likely to reside in a multi-occupant house, where they may be more barriers to switching. Those over 64, however, were more likely to have switched more than two years previously than those under 35, and those under 35 were more likely to have switched in the previous year than those over 65. In 2019, however there were no significant differences in likelihood to switch by age.” (p.37)

By race: “There was not a statistically significant difference in paying for electricity or gas between households of different ethnicity in 2016. However, in the 2019 survey, significant differences in paying for electricity were found. BAME people were more likely to pay on receipt of bill, and less likely to pay by direct debit. In 2019, those from a BAME background were significantly more likely to have never switched provider.” (p.38)

On tenure: “While tenure is obviously not a protected characteristic, those from BAME, younger people and those with a disability are more likely to live in rented accommodation, therefore worth exploring as a compounding factor in terms of incurring poverty

² <https://fairbydesign.com/wp-content/uploads/2021/02/The-Inequality-of-Poverty-Full-Report.pdf>

premiums". This means that those with particular protected characteristics are more likely to be renting, and renters were less likely than homeowners according to the research to switch. Therefore, there is a case to look at this issue as an equalities issue.

Q45. How could the barriers to switching be reduced for indebted consumers?

We are aware of how debt can be a barrier to switching. Similarly, debt could become a barrier to engaging in this trial. We feel that every effort should be taken to ensure as many people as possible can be enrolled on to the trial. This will mean making modifications to ensure all those who stand to benefit from this trial can do.

We agree with our colleagues at StepChange that changes to the Debt Assignment Protocol should be considered in order to allow more consumers to benefit from switching. We endorse their proposal to increase the £500 limit to £750 or £1000 for PPM debt and the 28-day limit replaced with a debt limit, replicating the PPM limit makes sense, for credit meter debt. Their evidence that shows how the average debt faced by their clients far exceeds the current £500 limit proves how restrictive it currently is. Those debt levels will have increased over the course of the pandemic.

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