



Competition and Markets Authority Annual Plan 2024/25 Consultation

THE CONSUMER COUNCIL RESPONSE

29 January 2024

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1. EXECUTIVE SUMMARY

The Consumer Council welcomes the opportunity to respond to the Competition and Markets Authority (CMA) Annual Plan 2024/25 consultation.

As Northern Ireland's consumer representative body, we share much common ground through extensive statutory powers in areas such as consumer affairs, energy, transport, food accessibility and non-statutory functions covering unfair practices in any market.

We are supportive of the Annual Plan and the continued focus on tackling key areas of cost for consumers and commitment to focus on consumers who need help the most. We have used this consultation to highlight key Northern Ireland considerations for the year ahead including:

- Understanding regional difference is important. Consumer detriment can be significant at a regional level but relatively small in comparison to the UK, meaning issues of consumer detriment in Northern Ireland struggle to be prioritised on a UK basis.
- Due consideration should be given to unfair behaviour and practices beyond EU Exit, whether in relation to market access or any divergence of regulations and standards.
- New powers in relation to the Digital Markets, Competition and Consumers Bill need to be understood and embedded with businesses and consumers. Regulation in digital markets must work to protect consumers from increasing detriment and build confidence and positive consumer outcomes.

We believe that understanding regional differences is key to ensure markets work for the consumers they serve. The Consumer Council is well placed to provide wider Northern Ireland consumer context drawn from our statutory and non-statutory responsibilities and insights from our consumer research, and education, outreach and advocacy programmes.

We welcomed the opportunity to share these insights with the CMA through its market study on road fuels and hosting members of the CMA Board on their Belfast visit in 2023.

We look forward to continued collaboration between the CMA, and in supporting the CMA teams in achieving the ambition and outcomes of the Annual Plan 2024/25.

2. ABOUT US

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

We are an insight-led evidence based organisation:

- Providing consumers with expert advice and confidential guidance.
- Engaging with government, regulators and consumer bodies to influence public policy.
- Empowering consumers with the information and tools to build confidence and knowledge.
- Investigating and resolving consumer complaints under statutory and non-statutory functions.
- Undertaking best practice research to identify and quantify emerging risks to consumers.
- Campaigning for market reform as an advocate for consumer choice and protection.

We have specific statutory duties in relation to energy, postal services, transport, water and sewerage, and food affordability and accessibility. These include considering consumer complaints and enquiries, carrying out research, and educating and informing consumers.

Our non-statutory functions educate and empower consumers against unfair or discriminatory practices in any market from financial services to private parking charge notices. Our interpretation of The Order gives us powers to tackle financial exclusion in Northern Ireland by working with The Executive, UK Government and regulators to influence policy and empower consumers through education and increased awareness.

Across all our areas of work, we pay particular regard to consumers:

- who are disabled or chronically sick;
- who are of pensionable age;
- who are on low incomes; and
- who live in rural areas.

We use a set of eight guiding principles (Figure 1) developed by the United Nations to:

- assess where the consumer interest lies; and
- develop and communicate our policies, interventions and support.

These provide an agreed framework through which we approach regulatory and policy work.

Figure 1: Consumer Principles



The principles ensure we apply a consistent approach across our statutory and non-statutory functions, and in all our engagement with consumers and stakeholders.

They serve and protect consumers and set out the minimum standards expected from markets when delivering products or services, including in digital markets, in Northern Ireland. They also frame our policy position and approach to resolving consumer disputes with industry, offering a straightforward checklist to analyse and validate outcomes, in particular vulnerable groups.

Super-complaints

We are a designated super-complaints body set up under the Enterprise Act 2002¹ and the Financial Services and Markets Act 2000 Order 2013².

Under both Acts, the Consumer Council can, if we believe any feature or combination of features of a market in the United Kingdom (UK) is, or appears to be, significantly harming the interests of consumers, raise a super-complaint on behalf of consumers to the following regulators:

- Civil Aviation Authority
- Competition and Markets Authority
- Financial Conduct Authority.
- Office of Communications.
- Office of Gas and Electricity Markets.
- Office of Rail and Road.
- Payment Systems Regulator.
- Northern Ireland Utility Regulator.
- Water Services Regulation Authority.

¹ [Enterprise Act 2002](#), UK Parliament

² [Financial Services and Markets Act 2000 Order 2013](#), UK Parliament

Under the Gas and Electricity Licence Modification and Appeals Regulations (Northern Ireland) 2015³, we can appeal to the CMA if we believe a modification by the Utility Regulator to the licence of a gas or electricity provider is detrimental to the interests of consumers.

EU Exit

The Order also gives the Consumer Council powers to monitor and report on the real and perceived impacts for consumers in light of Northern Ireland's unique position of being in the UK customs territory with access to the EU single market for goods, and the considerations of the NI Protocol, and more recently, the Windsor Framework.

It allows the Consumer Council to educate and empower consumers to understand how any changes might affect them and what actions they need to take. The work we carry out is aligned to the following Articles of the NI Protocol:

- Article 4: Customs territory of the UK.
- Article 5: Customs, movement of goods.
- Article 6: Protection of the UK internal market.
- Article 9: Single electricity market.
- Article 11: Other areas of North-South cooperation.

³ [Gas and Electricity Licence Modification and Appeals Regulations \(Northern Ireland\) 2015](#), UK Parliament

3. RESPONSE TO CONSULTATION QUESTIONS

Question 1:

Do you agree with the CMA's proposed updates to its medium-term priorities, core enablers, and areas of focus?

The continued cost of living crisis means competition and effective consumer protection are equally important to grow and innovate markets. We believe competition should be judged through the prism of consumer outcomes, delivered through a well-functioning market that meets consumers' needs.

Medium-term priorities

The Consumer Council agrees with the CMA update to its medium-term priorities to include 'Prioritise sectors that offer the biggest potential for impact on innovation, productivity and promoting resilience through competition'.

The achievement of fairness for consumers necessitates different approaches to protections across UK regions. This is of particular relevance in Northern Ireland where the small size of our market, geographical separation from the UK market, an EU land border, different regulatory regimes and implementation of the Winsor Framework create a unique environment for businesses, and different challenges for consumer access, opportunities, and protections.

Consumer detriment can be significant at a regional level but relatively small in comparison to the UK, meaning issues of Northern Irish consumer detriment struggle to be prioritised on a UK basis.

To ensure the work of the CMA drives benefits across all 4 nations of the UK, the unique circumstances of the Northern Ireland market should be a key consideration.

Core enablers

We welcome the evolution of the CMAs core enablers and believe these will be critical in the year ahead, particularly in relation to new responsibilities and powers under the UK Government's Digital Markets, Competition and Consumers Bill.

Digital markets are constantly evolving and are complex. With over 95% of NI consumers shopping online⁴, reliance on online markets is higher than ever. Our recent research into 'NI consumer and online detriment'⁵ found that many of our most vulnerable groups have lower digital literacy, online confidence, and find it difficult to access online services.

This research found that 56% of consumers had encountered some form of negative online content in the last 12 months, with 53% encountering scams, fraud or phishing, 11% seeing the sale or advertisement of illegal goods, 7% encountering subscription traps, and 6% coming across hidden charges.

Regulation in digital markets must work to protect consumers from increasing detriment and influence market behaviour to improve access, protection and redress.

⁴ Consumer experiences of retailers not delivering to Northern Ireland – Not yet published

⁵ [Northern Ireland Consumers and Online Detriment | Consumer Council](#)

It is important that the CMA use its new powers to inform and protect consumers from any type of competitive behaviour that either directly or indirectly exploits them solely for competitive gains.

It will also be vital to work with other regulators where markets intersect to ensure consumers have positive opportunities, access and outcomes when interacting with digital markets.

Areas of focus

People can be confident they are getting great choices and fair deals

We welcome the CMA work in areas of essential spending where people are under financial pressure and note the focus on travel and caring for ourselves and others. We believe however that consideration should be given to regionally specific criteria for consumer impacts when setting market studies or investigatory considerations, or in strategic planning and programming of work.

Northern Ireland differs financially from the rest of the UK. With regards to consumer affordability, our latest Northern Ireland Household Expenditure Tracker⁶ has found the discretionary income of our lowest earners, Quartile 1 households, is less than £27 per week and they spend 54% of total income on food (21%), rent and utilities (21%) and transport (12%). The weekly discretionary income of Quartile 2 households rises to just £77. The Consumer Council also carries out quarterly temperature checks into consumer sentiment and our latest Consumer Pulse Survey⁷ found 97% of consumers were concerned about home energy prices and 94% were concerned about the cost of food.

Households in Northern Ireland are more financially vulnerable than their UK counterparts. Gross household income for the lowest earning households in Northern Ireland is 9% lower than the equivalent households in the UK (£258.34 versus £284.15) and 71% of these households' income is derived from social securities (benefits) compared to the UK (60%).

The CMA should continue to deepen its understanding of regional differences when considering interventions to protect consumers and prevent harm.

In the year ahead the CMA must engage with consumers and consumer representative bodies to embed understanding of its new responsibilities and powers, improve understanding of how they protect consumers, and utilise appropriate metrics to track the effectiveness of the CMA's new functions going forward.

The Consumer Council are well placed to support these efforts by collaborating and coordinating appropriate activities with the CMA.

Competitive, fair-dealing businesses can innovate and thrive

We support this area but would highlight effective consumer protection is an equal lever to competition in ensuring businesses can thrive and innovate. We believe competition, and economic recovery and success, should be judged through the prism of consumer outcomes, delivered through a well-functioning market that meets consumers' needs.

⁶ [Consumer Council Northern Ireland Household Expenditure Tracker: Q2 2023](#)

⁷ [Consumer Pulse Survey: September 2023](#)

Due consideration should also be given to unfair behaviour and practices beyond EU Exit, whether in relation to market access or any divergence of regulations and standards.

The whole UK economy can grow productively and sustainably

Unique to Northern Ireland is the Protocol on Ireland and Northern Ireland (the Protocol) and the Windsor Framework, providing a new set of arrangements designed to restore the smooth flow of trade within the UK internal market. The Consumer Council want Northern Ireland consumers to have the same depth and breadth of protection, whether linked to access, choice, safety, information, fairness, representation, redress or education, as consumers in Great Britain (GB).

Regulatory divergence will affect Northern Ireland, so it is essential that market surveillance is undertaken to consider and monitor the impact of future divergence, whether passive, active or managed, to identify the additional features, considerations and risks to local markets, and the behaviours of consumers and firms.

Related to this, it will be important to understand how the OIM 'data strategy into intra-UK trade and the impacts of regulatory divergence', will monitor and mitigate against erosions to existing rights, protections and standards in place for Northern Ireland consumers.

Consideration should be given to areas of consumer protection that are devolved and how the CMA will share responsibilities within a Northern Ireland context.

Question 2:

Do you have any other comments on the CMA's draft Annual Plan?

In 2024/25 we would highlight the following areas for consideration:

We welcome the CMA's commitment to be flexible in responding to unforeseen developments in 2024/25. It will be important for the CMA to monitor the roll out of the Border Trade Operating Model and implementation of the Windsor Framework arrangements to ensure competition supports a resilient economy across all 4 nations of the UK.

As the decarbonisation agenda grows many consumers will switch to green products to reduce their carbon footprint. It is welcome the CMA continues to broaden its work in this area, for example sustainable products and services, but it is also essential to build their advocacy role, directly and with partners.

Affordability is only one way of monitoring consumer detriment, and the CMA should consider looking beyond essential spending and adopt a combination of affordability, simplicity, protection and standards, inclusiveness, reliability and empowerment measures.

4. CONCLUSION

The Consumer Council supports the CMA Annual Plan 2024/25 and we will continue to use our research and insights to inform the CMA of the unique experience of NI consumers.

The CMA and organisations across four nations of the UK should work in partnership and collaboration to establish a clear overview of existing and emerging markets, and their impacts to consumers.

Unique circumstances to Northern Ireland, including the small size of the regional market, geographical separation from the remainder of the UK market, an EU land border and the implementation of the Windsor Framework are significant factors that must be considered by the CMA.

To enable the CMA to undertake more wide-ranging market studies, and examine consumer impacts at a Northern Ireland level, it would benefit from complimentary research programmes with partners between regions to allow for comparative insights across the four UK nations.

Finally embedding new responsibilities and powers under the UK Government's Digital Markets, Competition and Consumers Bill will be a key tenet of work for the CMA . With markets becoming increasingly global and the growth of digital markets, the need for a robust and agile regulatory regime is essential for digital markets to ensure regulation can move at the same pace as market dynamics. There must be sufficient regulatory oversight and intervention in digital markets, as without this there will be significant risk of consumer detriment and harm.

The Consumer Council is happy to engage with the CMA on all areas of the Annual Plan 2024/25, especially to provide feedback from a Northern Ireland consumer prospective. We want to use our strong evidence base and local knowledge to help identify emerging issues in Northern Ireland before consumer detriment takes place and work with the CMA to protect consumers.

5. CONTACT INFORMATION

To discuss our response in more detail please contact:

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The Consumer Council consents to this response being published.

