MONEY AND MENTAL HEALTH
POLICY INSTITUTE

Money and Mental Health's response to the Department for Business, Energy & Industrial Strategy's Reforming Competition and Consumer Policy Consultation

Introduction

The Money and Mental Health Policy Institute is a research charity established by Martin Lewis to break the vicious cycle of money and mental health problems. We aim to be a world-class centre of expertise developing practical policy solutions, working in partnership with those providing services, those who shape them, and those using them, to find out what really works. Everything we do is rooted in the lived experience of our Research Community, a group of 5,000 people with personal experience of mental health problems.

This written submission has been informed by the experiences of our Research Community, as well as our wider body of research. Unless otherwise specified, all quotes in this response are drawn directly from the Research Community. In particular, it makes use of a survey of 129 Research Community members, conducted 17- 29 September 2021, specifically on their experiences of subscriptions and online reviews.

Background

- In any given year, one in four people will experience a mental health problem which can affect their cognitive and psychological functioning.[1] Over a lifetime, this proportion rises to nearly half the population.[2] However, we do not always know when we are unwell, or receive treatment. Over a third (36%) of people with a common mental disorder have never received a diagnosis, and 62% are not currently receiving treatment.[3]
- Online services can be a lifeline for people with mental health problems, offering them easier access to services and shopping at a time when it may be difficult to leave the house or carry out basic tasks.
- But common symptoms of mental health problems, like low motivation and limited concentration, can make people more vulnerable to financial harms online.[4] For example, people who have recently experienced a mental health problem are more than twice as

[1] McManus S et al. Adult psychiatric morbidity in England, 2007. Results of a household survey. NHS Information Centre for Health and Social Care. 2009.
[2] Mental Health Foundation. Fundamental facts about mental health. 2016.
[3] McManus S et al. Mental health and wellbeing in England: Adult Psychiatric Morbidity Survey 2014. NHS Digital. 2016.
[4] Holkar M, Lees C and D'Arcy C. Safety Net. Money and Mental Health Policy Institute. 2021.

likely to say they have spent more than they can afford when shopping online in the last twelve months.[5]

Summary

- The way the CMA is currently set up to investigate and enforce consumer law has meant it has been slow to react to new emerging consumer harms. The government's proposed changes would help the CMA be more flexible and responsive and empower it to better enforce consumer protections.
- While subscription models can bring benefits to consumers, common symptoms of mental health problems combined with unclear and difficult processes can lead to people becoming trapped in subscriptions they no longer need or use, putting strain on stretched finances. The government's proposals will help consumers be more aware of what they are signing up for, allow them to manage their subscriptions and make it easier to cancel.
- Reviews can play an important role in someone's decision process when buying something online. However, people are being exposed to fake reviews for poor quality, dangerous and scam goods. It can often be harder for someone to spot that a review is fake when they are going through a period of poor mental health. The government's proposals will help clamp down on this practice and help make sure consumers can get a fair deal when online.
- Key elements of website design can encourage people to spend more than they can afford and exacerbate symptoms of mental health conditions. The CMA needs to launch a review into whether current consumer protections for customers are fit for the digital age.

Reforming the CMA

In this section we respond to questions 4, 5, 6, 7, 8, and 55.

The CMA plays an important role in ensuring that markets work well for consumers and helping to reduce instances of consumer detriment. However, the current system means that the CMA's capacity and powers to enforce consumer law cases are weaker than those for competition law. The current system was designed to allow the CMA to understand a market and the harm occurring before intervening. However, this has caused the CMA to be less responsive to changing markets and emerging harms, particularly with regard to digital services. We support the proposals set out by the government to help reform the way that the CMA investigates cases of consumer harm and how it enforces consumer protections.

[5] Holkar M and Lees C. Convenience at a cost. Money and Mental Health Policy Institute. 2020.

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Helping the CMA be more responsive

Recently there has been increased interest in how the CMA works. In 2019 then Chair of the CMA Lord Tyrie sent a letter to the Secretary of State for BEIS outlining proposals for how the CMA could be reformed.[6] This was followed by an independent review, commissioned by the government and led by John Penrose MP that looked at UK competition policy.[7] We agree with many of the points raised in both of these documents. The current system for investigating and enforcing competition law is too protracted and it takes too long for the CMA to make recommendations or remedies. In a report on online harms and regulation, we identified consumer harms emerging in markets that are moving online or in new digital only markets e.g. online environments that are designed to pressure consumers into making certain financial decisions. Despite the prevalence of such harms and the damage they can cause, the regulatory system has been slow to adapt.[8] The current framework also means that consumer law cases are not on an equal footing to competition law cases.[9] For example, this means the CMA cannot launch an in-depth market investigation for consumer law cases as it does for competition cases.

The government's proposals to reform how the CMA approaches market inquiries are therefore welcome. While we have no strong view on which of the two proposed approaches is best, we believe that they will help make the CMA more responsive and flexible in dealing with emerging harms.

We also support the government's proposal to allow the CMA to introduce interim measures and be able to make binding commitments at any stage of an inquiry. These changes would enable the CMA to be more flexible and responsive. They would also strengthen the CMA's approach to consumer law cases and ensure that consumer harm does not continue unabated.

The government's proposals for the CMA to test out new remedies and to review previous remedies is also welcome. Markets do not remain static and new innovations often cause significant shifts. Therefore, the CMA should be able to review previous remedies to understand whether they are still effective in the market, and where they are not, the CMA should make amendments. Additionally, being able to test remedies will provide the CMA with a greater understanding of how they work in the 'real world' and thus make them more effective. We

[6] Tyrie A. Letter from Andrew Tyrie to the Secretary of State for Business, Energy and Industrial Strategy. Competition and Markets Authority. 2019.
[7] Penrose J. Power to the people: independent report on competition policy. 2020.
[8] Holkar M, Lees C and D'Arcy C. Safety Net. Money and Mental Health Policy Institute. 2021.
[9] Tyrie A. Letter from Andrew Tyrie to the Secretary of State for Business, Energy and Industrial Strategy. Competition and Markets Authority. 2019; Penrose J. Power to the people: independent report on competition policy. 2020.

recommend that the CMA ensures that remedies are tested with a wide range of different consumers, including those with additional needs such as people with mental health problems.

A stronger and faster inquiry process may raise concerns for some firms with regard to whether the CMA has properly assessed the state of play in a market and fully understood the issues. We would not wish to see a more active CMA lead to reduced innovation in markets. To reduce potential uncertainty among firms, the CMA's process should be clearly set out to underline that firms bringing new products to customers do not need to be risk-averse. Alongside this, the CMA will need to be adequately resourced to ensure the investigations it undertakes are high-quality, reassuring firms about the new regime.

Empowering the CMA

Both the Penrose report and Lord Tyrie's letter highlighted that the CMA does not have the same powers when it comes to enforcing consumer law as it does with competition law.[10] For competition cases, the CMA can decide itself if the law has been broken and impose fines. But for consumer law cases the CMA must take a firm to court and cannot fine a firm for not complying. This two-tier system is failing consumers, given the level of consumer harm and the lack of powers the CMA has to hold firms to account. In light of this situation, we support the government's proposals to reform the CMA's approach to consumer law cases. Empowering the CMA to be able to enforce consumer protection law directly, rather than through the courts, will better protect consumers from unscrupulous companies and reduce sector-wide harms.

Subscriptions

In this section we respond to questions 34, 36, 38, 39 and 40.

As the consultation document highlights, subscriptions have become much more common in recent years and consumers can spend significant sums on them. In some sectors, such as digital entertainment, it is almost impossible for consumers to use a service without first signing up to a subscription. This is an issue that particularly affects people with mental health problems, as they are more likely to have taken out a subscription compared to people without mental health problems.[11] Subscriptions to entertainment or treats can be a way for someone to alleviate a low mood, while for others, experiencing increased impulsivity as a result of their condition can lead to them signing up to a subscription when unwell. While there can be many

[10] Tyrie A. Letter from Andrew Tyrie to the Secretary of State for Business, Energy and Industrial Strategy. Competition and Markets Authority. 2019; Penrose J. Power to the people: independent report on competition policy. 2020.
[11] 71% compared to 58%. Mackenzie P and Evans K. Subscription retail: an expensive trap. Money and Mental Health Policy Institute. 2017.

benefits to consumers, such as having to avoid repetitive payment processes, people can often become trapped in subscriptions that they no longer want or need. This can be particularly problematic for people with mental health problems who can face additional barriers when trying to manage and cancel subscriptions. We therefore welcome many of the proposed changes included in the consultation document. These should help ensure consumers are aware that they are signing up to a subscription, empower them to manage their subscriptions and make it easier for them to cancel any they no longer want or need.

Signing up

One particular issue with subscriptions, especially in digital markets, is that consumers can often be unaware that they are signing up for a subscription in the first place. In our Research Community survey, two-fifths (39%) of respondents had signed up to a paid subscription without realising.[12]

This confusion can arise from companies hiding important information in the small print or terms and conditions (T&Cs). This can be problematic because many people either don't read the T&Cs or don't understand them. Citizens Advice found that a third of people don't read the T&Cs of subscriptions and of those who do, three quarters (73%) don't understand them.[13] This can be particularly difficult for people with mental health problems whose symptoms can make it harder to process complicated information when unwell.

"It's more complicated than it needs to be. Deciphering the small print is very stressful and time consuming."
Expert by experience

Companies can also carefully design online customer journeys so that the friction in making a decision is reduced and customers are nudged to make certain decisions, such as signing up to a subscription. These design choices can exacerbate a common symptom of mental health problems - increased impulsivity - leading people to quickly click through, unaware of what they have selected.

"Sometimes I sign up for things I don't need or want while in a bad mental health state."
Expert by experience

[12] Money and Mental Health survey. Base for this question: 128 people with lived experience of a mental health problem.
[13] Citizens Advice. Locked in. 2016.

"My up and down personality makes me more likely to take [subscriptions] out without full consideration of the financial impact."
Expert by experience

Given this, we welcome the changes the government has proposed to expressly require traders to make it clear during the customer journey that a customer is about to sign up to a subscription contract and what the terms are. This proposal received unanimous support from our Research Community.[14] The government's proposal to strengthen the law to expressly require traders to give consumers the choice on whether they want an auto-renewing subscription or not is also welcome. These changes will help consumers be more aware of what they are signing up for. The CMA would have to closely monitor how businesses implement these changes to ensure that the information and choice architecture is clear and effective.

Remembering subscriptions

Another significant issue with subscriptions is that people can forget that they have a subscription or forget to cancel an unwanted one before it renews. This, combined with cases of people being unaware of what they have signed up for, means many people can continue to pay for subscriptions long after they have stopped needing or using them.

This is another area that can particularly impact people with mental health problems, as struggling with memory can be a common symptom of several conditions. In previous research we conducted we found that four in ten (43%) people with mental health problems didn't cancel a subscription because they kept forgetting to do so, compared to a third (34%) of people without mental health problems.[15] Given this, it is important that companies make their customers aware of changes to subscriptions, such as the contract auto-renewing or the price increasing. However, over half (56%) of Research Community respondents had experienced a subscription automatically renewing without them being notified. Additionally, over one in four (27%) had experienced the price rising without them realising.[16] On average, people with mental health problems face a significant income gap compared to people without mental health problems,[17] and are three and a half times more likely to be in problem debt.[18] Auto-renewing subscriptions can therefore have a significant impact on someone's finances.

[14] 100% said they supported companies having to make it very clear when you are about to sign up to a subscription. Money and Mental Health survey. Base for this question: 127 people with lived experience of a mental health problem.
[15] Mackenzie P and Evans K. Subscription retail: an expensive trap. Money and Mental Health Policy Institute. 2017.
[16] Money and Mental Health survey. Base for this question: 128 people with lived experience of a mental health problem.
[17] Holkar M. Debt and mental health: a statistical update. Money and Mental Health Policy Institute. 2019.
[18] Bond N and D'Arcy C. Mind the income gap. Money and Mental Health Policy Institute. 2020.

"Subscriptions renewing without notifications have taken me over budget so I have had to cut back in other areas, some of which I consider essential."
Expert by experience

We support the government's proposal to require traders to remind consumers before the end of a commitment period that the contract will auto-renew unless cancelled. This was supported by virtually all (97%) of our Research Community members.[19] It would be most beneficial if this applied in the circumstances where the contract auto-renewed or rolled over at the end of the minimum commitment period, and not just when it renews onto a new fixed term deal.[20] There should also be a requirement for companies to include information about how someone can cancel the subscription in the reminder that is sent out. It is especially important, as the consultation document highlights, that this is sent out by the consumer's preferred method of communication. From our research, we know that certain communication channels work best for different people[21] and to make communications most effective, firms should record and stick to customers' communication preferences.

The problem with free trials

A way that many companies entice people to subscribe to their service is through offering free trials. While these can allow consumers to experience different services before choosing the one that works best for them, people often forget or don't realise that they will enter a full subscription at the end of the free trial. In our Research Community survey, a third (34%) of respondents had signed up to a free trial without realising they would be charged for the full subscription.[22] Over half (55%) had forgotten to cancel a subscription before the end of a free trial.[23] This can put pressure on already stretched budgets. Offering discounts for repeat orders through a subscribe-and-save model can also be problematic for people experiencing increased impulsivity. In previous research with our Research Community, nearly a quarter (23%) said that such discounts made it a lot harder to stay in control of their spending.[24]

"I used a free trial for Audible a few years back, then discovered about eight months later that they'd been taking money from me every month on subscription. I had no idea I'd even signed

[19] Money and Mental Health survey. Base for this question: 128 people with lived experience of a mental health problem.
[20] Option ii in Q34.
[21] Holkar M, Evans K and Langston K. Access Essentials. Money and Mental Health Policy Institute. 2018.
[22] Money and Mental Health survey. Base for this question: 128 people with lived experience of a mental health problem.
[23] Ibid.
[24] Holkar M and Lees C. Convenience at a cost. Money and Mental Health Policy Institute. 2020.

up for an Audible account because they advertised it on Amazon that you could get a free audiobook with an Amazon account."
Expert by experience

We support the government's proposals to strengthen the rules around free trials. Nearly all (99%) Research Community respondents were supportive of requiring companies to remind customers that a free trial is about to end.[25] While this would help empower customers to decide if they want to continue with a full subscription, it puts the onus on the individual to cancel the contract. This is something that can be hard for many people, particularly people with mental health problems who can face barriers like low motivation and energy. A fifth (20%) of people with mental health problems have put off cancelling subscriptions because it would take lots of effort to cancel.[26] Companies often make the process of cancelling difficult which can exacerbate these issues. We think it would therefore be more beneficial to instead require companies to obtain someone's explicit consent to continue a subscription after a free trial offer has ended. This is still supported by a majority (95%) of Research Community respondents.[27]

"My mental health impacts my ability to deal with these things and I have previously paid for unwanted subscriptions for years rather than face the issue and deal with it."
Expert by experience

Consumers can therefore face a combination of not knowing what they've signed up for, forgetting to cancel a free trial or subscription, and then struggling to cancel. We therefore believe that the proposal to require traders to cancel a subscription after a significant period of inactivity would help many people with mental health problems who are paying for subscriptions they no longer use. Although less popular than other proposals, four fifths (84%) of respondents supported the idea of automatically cancelling a subscription after a year's inactivity.[28] The government would need to explore how the inactivity could be assessed, for example, would accepting an update to an app count as activity? This would allow the government to outline which subscriptions would come under this requirement.

[25] Money and Mental Health survey. Base for this question: 127 people with lived experience of a mental health problem.
[26] Mackenzie P and Evans K. Subscription retail: an expensive trap. Money and Mental Health Policy Institute. 2017.
[27] Money and Mental Health survey. Base for this question: 128 people with lived experience of a mental health problem.
[28] Money and Mental Health survey. Base for this question: 114 people with lived experience of a mental health problem.

Easy to sign up, harder to cancel

While people with mental health problems can forget to cancel or find it particularly challenging to do so, companies can often make this process unnecessarily difficult. Steps like adding in extra friction to make it harder to cancel can mean people struggling with their mental health are unable to stop paying for a service. Three quarters (74%) of Research Community members have found it easy to sign up to a subscription but harder to cancel.[29] Companies can use various tactics to make it harder to cancel, such as requiring someone to ring up, hiding the process on their website, or including several unnecessary steps. The Norwegian Consumer Council has highlighted Amazon Prime as a particularly bad example of how a company can use such tactics.[30] For example, the wording of its options to cancel focus on the loss of benefits rather than on the savings for the consumer (known as "confirmshaming"). The Council also found that when someone is finally able to cancel, it only takes one click to renew the subscription.

"I tried to cancel but could not find out how to cancel it. It was on Amazon Prime and I could not find in my account how or where to cancel it so I left it even though I didn't want it anymore."
Expert by experience

Requiring someone to make a phone call to cancel can be especially difficult for people with mental health problems, who often struggle to speak on the phone.[31]

"I have difficulties using the phone for phone calls due to anxiety, so calling up to cancel is difficult."
Expert by experience

The process of trying to cancel a subscription can often be complex, especially when someone is unwell, and this in turn can cause stress and anxiety. In our survey, over half (55%) of respondents found the process confusing, and two thirds (66%) found it stressful.[32] This can lead to people keeping the subscriptions after giving up on the process and putting unnecessary strain on their finances. Given the financial and psychological harm that the cancellation process can cause, we support the government's proposal to make the process straightforward, cost-effective and timely. Research Community respondents unequivocally

[29] Money and Mental Health survey. Base for this question: 128 people with lived experience of a mental health problem.
[30] Forbrukerradet (Norwegian Consumer Council). You Can Log Out, But You Can Never Leave. 2021.
[31] Holkar M, Evans K and Langston K. Access Essentials. Money and Mental Health Policy Institute. 2018.
[32] Money and Mental Health survey. Base for this question: 128 people with lived experience of a mental health problem.

supported the principle of it being as easy to cancel as to sign up.[33] We think it's important that companies provide information on how to cancel and that someone shouldn't have to ring up to cancel their subscription. These principles also received strong support from the Research Community.[34] While it is important to make subscriptions easy to cancel, the government should also look at how easy it is to sign up in the first place and could consider ways to add in additional friction without inconveniencing consumers.

Fake reviews

In this section we respond to questions 42, 43 and 45.

We support the government's proposals to add the offering and commissioning of fake reviews into the Consumer Protection from Unfair Trading Regulations (CPRs). This will ensure that people are able to get fair deals when online and are not exposed to harm.

Reviews can be an important part of a decision to purchase something, they can give an indication of whether a product or service is value for money, is good quality or is safe. Studies have shown that reviews can be particularly important when buying something online, given a consumer cannot see the item in person before buying.[35] The survey with our Research Community highlighted the importance of reviews, with nearly half (48%) saying they only buy something online if it has good reviews.[36]

"I always try and look at reviews as a must before I purchase any product online, and even if I'm going to purchase something in a shop, I often look online."
Expert by experience

However, consumers can often be confronted with fake reviews that have artificially boosted the profile of a product or service and this can lead to people buying faulty or dangerous goods. Which? showed that people are twice as likely to buy a poor-quality product if it has higher rates due to fake reviews.[37] Some of our Research Community respondents told us about their own experiences of buying something with good reviews only to find out that the product fell well below what was described.

[33] 100% supported this. Money and Mental Health survey. Base for this question: 126 people with lived experience of a mental health problem.
[34] 100% and 96% respectively. Money and Mental Health survey. Base for these questions: 126 people with lived experience of a mental health problem.
[35] Zhang K, Xu H and Yu Y. Online reviews and impulse buying behavior: the role of browsing and impulsiveness. Internet Research 28(2) 2018: 42-62; Which? Online marketplaces and product safety. 2019.
[36] Money and Mental Health survey. Base for this question: 126 people with lived experience of a mental health problem.
[37] Which? The real impact of fake reviews. 2020.

"I bought a product off Amazon a few years ago. It had a large number of 5-star reviews and so I thought it was probably a good product. When I ended up buying it, I discovered in the product packaging a leaflet that said you could get money back if you left a 5-star Amazon review. I felt conned. They're essentially buying reviews. Who's going to put a bad review if they can get money back for leaving a good one?"
Expert by experience

Attitudes to reviews varied among our Research Community. Four-fifths (83%) of respondents said that reviews sometimes seem too good to be true.[38] However, a quarter (25%) agreed that they trust that the reviews they see online are genuine.[39] And when someone with mental health problems is unwell they may not be able to take the time or have the mental capacity to decipher whether a review is real or not.

"If I am in an even slightly 'manic' state I believe everything that I read. If I am in a low mood I believe nothing"
Expert by experience

The existence of fake reviews can also expose people to scams. In our recent research on online scams, we found that many people are likely to check the reviews of a company or product to make sure that it's not a scam.

Given the problem and the harm it can cause, we welcome the government's proposal to add the commissioning of fake reviews into the CPRs. We also support the addition to the CRPs of hosting consumer reviews without taking reasonable steps to ensure that they are legitimate. A clear majority (96%) of Research Community respondents believed companies should be responsible for ensuring that reviews on their site are genuine.[40] These changes will help people to get a fair deal online and offer greater protection from unsafe products and scams. Additionally, the proposal to add the offering of fake reviews to the CPRs will clamp down on the practice and keep consumers safe. Nine in ten (90%) of Research Community respondents agreed that companies should not be able to incentivise customers to give a good review.[41]

[38] Money and Mental Health survey. Base for this question: 124 people with lived experience of a mental health problem.
[39] Money and Mental Health survey. Base for this question: 119 people with lived experience of a mental health problem.
[40] Money and Mental Health survey. Base for this question: 122 people with lived experience of a mental health problem.
[41] Money and Mental Health survey. Base for this question: 125 people with lived experience of a mental health problem.

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Online exploitation of consumer behaviour

In this section we respond to question 46.

Our recent online harms project found that website design can exacerbate common symptoms of mental health problems, like increased impulsivity and difficulty processing information, and put people under pressure to spend money. We believe that the CMA and other regulators need to act to ensure companies are not exploiting consumers online and that anything that is deemed unacceptable offline is also unacceptable online.

Design choices

While the growth of online services has been beneficial for many people with mental health problems, it has also exposed them to financial harms. For example, three in ten (29%) people who have recently experienced a mental health problem have spent more than they can afford when shopping online in the last twelve months, more than twice the proportion among people who have never experienced mental health problems (12%).[42] These financial harms can in turn impact on someone's mental health.[43] Symptoms of many mental health problems can directly contribute to this; increased impulsivity, a desire to raise a low mood or difficulty keeping track of budgets can all leave us more at risk of overspending when unwell.

"I have been inclined to spend a lot more money by buying online. My finances have been hard to manage due to my online shopping."
Expert by experience

The way that sites are designed can often exacerbate these symptoms and encourage people to spend more than they can afford; a fifth of people with mental health problems felt under pressure to spend whenever they went online.[44] Sites can do this in three main ways: by reducing the friction in the customer journey, by nudging people to keep spending, and by personalising the user experience. For full detail, read our report *Convenience at a cost.*[45] Many people are aware of the fact that companies are trying to get them to spend more money. Half (54%) of people who have recently experienced a mental health problem felt that online shopping sites make it too easy to spend more money than you can afford.[46] However, we found that when someone is unwell, it can be significantly harder to not be influenced by the design of sites.

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[42] Holkar M, Lees C and D'Arcy C. Safety Net. Money and Mental Health Policy Institute. 2021.
[43] Ibid.
[44] Ibid.
[45] Holkar M and Lees C. Convenience at a cost. Money and Mental Health Policy Institute. 2020.
[46] Ibid.

Reducing friction

Shopping sites use design choices that reduce the friction in the transaction journey, such as allowing someone to buy a product in one click, to make it easier to spend money. This, however, can make it harder for someone who might be experiencing increased impulsivity as a result of their condition to stay in control of their spending. We also found people had experienced similar issues with reduced friction on gambling sites and with online credit providers.[47] Minimal friction can also result in transactions feeling less 'real', especially for people who are unwell. In national polling, more than one in three (37%) of those who have recently experienced a mental health problem agreed that shopping online didn't feel like spending real money, compared to 25% of people without a mental health problem.[48]

"It's a lot easier to lose track of what you've spent online, constantly just clicking buttons and before you know if you've spent a few hundred pounds."
Expert by experience

Putting customers under pressure

Sites put customers under pressure to spend through nudges such as notifications telling them that something is low on stock or that there are lots of people looking at an item. These nudges can often instill panic and make people worry that they will miss out. A third (32%) of Research Community respondents felt that information about limited stock and timers indicating the end of a sale made it a lot harder to control their spending.[49] These nudges can have a significant impact on someone when they are unwell and struggling to think through a financial decision.

"When you're told x number of people are looking at an item or there's only so many left, irrational panic sets in and I've made foolish purchases."
Expert by experience

Personalisation

Online shopping sites can also encourage people to increase their spending by personalising the customer experience. This can include recommending products others have bought or suggesting additions for a 'bundle', which can play on our biases to go along with the crowd. Three in ten (29%) Research Community respondents felt that recommended products and bundles made it much harder to stay in control of their spending.[50] Suggestions often appear during key points in consumer journeys and so can have a greater impact when people are unwell by encouraging impulse purchases.

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[47] Holkar M, Lees C, D'Arcy C. Safety Net. Money and Mental Health Policy Institute. 2021.
[48] Holkar M and Lees C. Convenience at a cost. Money and Mental Health Policy Institute. 2020.
[49] Ibid.
[50] Ibid.

"It's the 'you bought this, you might like this' that keeps me spending when I'm unwell."
Expert by experience

Adverts that people see in other online environments, such as social media, can be highly personalised, for example showing someone a product very similar to something they recently looked at online. While personalised adverts can affect everyone, they are particularly hard to resist for those who struggle to control impulses. This is especially damaging when the journey from seeing the advert to making a purchase is short. A quarter (26%) of people who have recently experienced a mental health problem agreed that seeing adverts online makes it harder to stay in control of their spending, compared to 14% of those who have never had a mental health problem.[51]

"The personalisation of adverts and 'things we think you might like' sections just entice you in with things you wouldn't necessarily buy if you saw them in a shop."
Expert by experience

The role of the CMA

The combination of these three elements of website design is causing significant difficulties for consumers with mental health problems. In some cases, it seems that misleading and aggressive tactics are being used, despite the CPRs. The government has committed to making the UK the safest place to be online and it is clear that action needs to be taken. In national polling, eight in ten people (79%) agreed that if something is unacceptable offline, it should be unacceptable online.[52] The use of design in online spaces is a clear example of an emerging practice that the government and regulators have been slow to adapt to.

The CMA has previously investigated the practices of hotel booking sites and found that many were breaking the law, including by pressuring customers into making bookings with misleading time-limited offers and nudges designed to create an artificial sense of scarcity.[53] We believe that the CMA should cast its investigations wider and review existing consumer protections for consumers in more online spaces, in particular on shopping sites, to ensure they are fit for the digital age. This review should consider:

- the role of "dark patterns", elements of the design of online sites that can manipulate customers and result in harmful outcomes

[51] Holkar M and Lees C. Convenience at a cost. Money and Mental Health Policy Institute. 2020.
[52] Holkar M, Lees C and D'Arcy C. Safety Net. Money and Mental Health Policy Institute. 2021.
[53] Competition and Markets Authority. Consumer law protection compliance: principles for online accommodation booking platforms. 2019.

- personalisation in online shopping sites and through advertising. This could be addressed as part of a wider regulatory response to online targeting, as suggested by the Centre for Data Ethics and Innovation.
- which current regulations can be translated or transformed so that they apply to digital spaces.
- what is required for effective enforcement of consumer protection for online shoppers.
- the extent to which vulnerable consumers, including some people with mental health problems, are protected from harm.

The CMA should then develop a set of principles for online shopping sites to ensure that retailers understand and comply with their consumer law responsibilities and encourage retailers to commit to them. The proposals outlined in the consultation document and explored in pages two to four of this response will help the CMA undertake the review and make sure that companies comply with the outcomes.

Fairness by design

Beyond simply complying with consumer protection regulations, companies should be more widely adopting a fairness-by-design approach. Eight in ten (80%) Research Community respondents felt that online shopping sites should be responsible for ensuring that customers with mental health problems can stay in control of their spending.[54] Shopping sites have the resources and expertise at their disposal to empower customers with mental health problems and enable them to shop in a healthy way. Shopping sites should adopt the following five elements as best practice to better support and protect their vulnerable customers:

- Customer controls
  - Companies could allow customers to be able to turn off certain design elements, such as personalised recommendations.
- Additional friction
  - Companies could build in additional friction in key parts of the customer journey, such as a cooling-off period for purchases.
- Spending limits
  - Companies could allow customers to set spending limits on their sites, for example on the amount of money they can spend in a certain time period.
- Clear visibility of spending
  - Companies could give customers a clearer indication of how much they are spending on their sites.
- Information and signposting

[54] Holkar M and Lees C. Convenience at a cost. Money and Mental Health Policy Institute. 2020.

- Companies could provide customers with information on how they can stay in control of their spending and where they can get support from if required.

Improving Alternative Dispute Resolution

In this section we respond to questions 65 and 73.

Alternative Dispute Resolution (ADR) providers can allow consumers to seek redress when something has gone wrong. However, there can be specific challenges with ADRs: not all are compulsory, many people aren't aware of them, the systems to access them can be complicated and the process can be long.[55] These issues can be even more relevant for people with mental health problems. For example, trying to find out what provider to use can be difficult when someone is unwell and struggling to process information. Avoidance is a common coping mechanism for people experiencing anxiety and the prospect of a long, complex process can seem daunting or impossible for people who are experiencing low motivation as a result of their mental health. For some people who can struggle with their memory as a result of their condition, trying to remember specific details when going through the process can make it more difficult. There are a few key principles that an ADR should have in order for it to work best for all consumers, including those with mental health problems:

- Relevant firms and organisations working to support consumers should provide clear signposting to the scheme.
- ADR providers' websites should be accessible and make it easier for people to find and understand the relevant information and processes.
- Information in communications and throughout the process should be clear and jargon-free.
- ADR providers should ensure that their customer journeys are smooth and provide information about how long the process will take and what someone might need at hand to complete it.
- ADR providers should provide different ways for someone to get in touch to help those who struggle with a particular communication channel.
- ADR processes should be designed with vulnerable people in mind and involve a range of people with lived experience in any changes.

The government has said it is considering views on opening up further routes to collective consumer redress, including to consumer organisations. As highlighted above, vulnerable people, including those with mental health problems, can struggle to access existing redress schemes. Consumer organisations are often able to learn about harms that are affecting

[55] Lewis M, Barnes W and Good K. The Consumer Need For Ombudsman Reform. Money Saving Expert. 2017; Citizens Advice. Modernising consumer markets. 2018.

particular consumers and have the resources to investigate this further. Consumer organisations could expose significant consumer detriment in a way that individuals accessing redress systems cannot. Allowing consumer organisations to bring collective redress cases could deal with such cases of significant consumer detriment without requiring individuals to go through complicated processes.