

Loyalty pricing in the groceries sector

Findings Report

November 2024



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1. Introduction

Background

1.1 This report sets out:

- the background to the loyalty pricing review, which began in January 2024;
- the purpose of the review and what it involved;
- the review findings;
- the CMA's views on how consumer law applies to loyalty pricing.

CMA's mission and powers

1.2 The CMA is the UK's primary competition and consumer authority. The CMA's purpose is to promote competitive markets and tackle unfair practices. We are particularly focused on areas where people spend the most time and money, and those who need help the most. As set out in our Annual Plan, the CMA is committed to ensuring that people can be confident they are getting great choices and fair deals.¹ We want to make sure that people can be confident they are getting the best deals possible for their grocery shopping in challenging times.

1.3 In the face of sustained cost of living pressures, over the last few years, the CMA has had a programme of work in the groceries sector. Alongside work to consider retail competition and profitability in the groceries sector², we have been scrutinising a range of pricing issues in the groceries sector to protect consumers from any unfair or misleading practices.^{3 4}

1.4 With the rise in some supermarkets making cheaper prices only available for loyalty scheme members, and concerns raised by some stakeholders, we began a wide-ranging review of loyalty pricing in the groceries sector in January 2024.

¹ CMA Annual Plan 2024 – 25, [CMA Annual Plan 2024 to 2025 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/cma-annual-plan-2024-to-2025)

² Competition and Profitability in the groceries sector, July 2024
<https://www.gov.uk/government/publications/competition-and-profitability-in-the-groceries-sector>

³ Unit pricing, <https://www.gov.uk/cma-cases/unit-pricing>

⁴ Price Marking, [Review of price marking in the groceries sector - GOV.UK](https://www.gov.uk/government/publications/price-marking-in-the-groceries-sector)

1.5 The concerns raised include:

- that loyalty price promotions are not genuine or as good a deal as presented.
- that non-members are required to pay a price that has been inflated to make the loyalty price appear more attractive.
- that it is unfair that cheaper prices are only available to people that are able to join schemes.
- that it is unfair that cheaper prices are only available to people that are willing to share their personal data with supermarkets.

Objectives of the review

1.6 The key objectives for our review were:

- to assess whether grocery retailers' promotions are fair under consumer law and to take enforcement action if we find problems
- to provide advice to grocery retailers to help them understand what consumer law requires when offering loyalty price promotions
- to understand how shoppers feel about loyalty pricing and how it is impacting their shopping behaviour.

Scope

1.7 The scope of our review has been on loyalty pricing by supermarkets.⁵ Loyalty pricing, also sometimes referred to as 'member pricing' or 'dual pricing', is a form of promotion where a retailer makes a product available at two prices simultaneously - a cheaper price for shoppers who are members of their loyalty scheme, and a higher price for those who are not members.⁶

1.8 The primary focus of our review has been on supermarkets that offered loyalty pricing at the point we opened our review in early 2024 – these are: Co-op, Morrisons, Sainsbury's, Tesco, and Waitrose. However, we have seen during our review that loyalty pricing is evolving and that some supermarkets are continuing to innovate. For example, some supermarkets have introduced

⁵ References to supermarkets throughout the report means large grocery retailers including traditional supermarkets and discounters.

⁶ Loyalty pricing can take different forms – see paragraph 2.4.

loyalty pricing or expanded the number or type of loyalty price promotions they offer during the period of our review. This is described further in chapter 2. Our review has not considered loyalty schemes⁷ in a more general sense.

- 1.9 Throughout this report we refer to the prices available to members as ‘loyalty prices’ and the prices available to shoppers that are not members (or those that do not use their loyalty card or app for purchases) during a loyalty price promotion as ‘non-loyalty prices’. A glossary of the key terms such as this can be found at the end of this report.

Methodology

- 1.10 To inform the review we have gathered evidence and information from a range of sources, including:

- information from Tesco, Sainsbury’s, Waitrose, Co-op and Morrisons (‘the five supermarkets’) on their loyalty pricing, including a year of daily pricing data for around 50,000 grocery products that were on a loyalty price promotion either in August or November of 2023.
- information from the five supermarkets about their loyalty schemes and the data they collect about shoppers.
- supermarkets’ websites, privacy policies, public statements and annual reports, and market reports on loyalty pricing.
- a nationally representative survey, carried out by the National Centre for Social Research (NatCen) on our behalf, gathering responses from 2,439 grocery shoppers, 2,313 of whom were loyalty scheme members.⁸
- consumer comments on loyalty pricing and considered publicly available consumer research and media coverage relating to loyalty pricing.
- a sample of 429 branded products on a loyalty dual price promotion at one or more of Tesco, Sainsbury’s, Morrisons and Co-op. We then collected price data for up to six other supermarkets (Asda, Co-op, Morrisons,

⁷ A loyalty scheme refers to a membership programme whereby members are given exclusive access to benefits unavailable to non-members. These can include perks and rewards, personalised offers, coupons or vouchers, loyalty points, and more recently, loyalty pricing.

⁸ The methodology for our consumer survey, along with findings that are not reported elsewhere in this report, is at [Appendix A](#).

Ocado, Sainsburys, Tesco and Waitrose) if they also sold the identical branded products, to compare the prices.⁹

- 1.11 We have engaged with a range of stakeholders during our review including supermarkets, other regulators, and consumer representative organisations. We welcome the constructive approach adopted by all of them towards our review.
- 1.12 We have carefully considered all information when coming to our conclusions. This report sets out our views on the loyalty pricing practices we have seen and how grocery retailers can stay on the right side of consumer law when offering loyalty price promotions.¹⁰

Overview of chapters

- 1.13 **Chapter 2** of this report provides an overview of the supermarkets' current loyalty schemes, with a particular focus on loyalty pricing.
- 1.14 **Chapter 3** sets out the findings from our consumer survey on loyalty pricing. We set out shoppers' attitudes to loyalty pricing and its impact on their behaviour. (Appendix A provides more detail on the methodology and findings from this survey.)¹¹
- 1.15 **Chapter 4** describes the barriers some shoppers face joining supermarket loyalty schemes and accessing loyalty pricing. It also considers whether any of these are unfair under consumer law.
- 1.16 **Chapter 5** provides our assessment of shoppers' attitudes to supermarkets collecting their data when they use loyalty schemes. It also provides our views on whether the data collection and usage practices of supermarkets give rise to consumer law concerns.
- 1.17 **Chapter 6** sets out our views on how consumer law applies when offering loyalty price promotions in the groceries sector.
- 1.18 **Chapter 7** summarises the findings from our price analysis of products on a loyalty promotion and our assessment of whether these promotions could be misleading for shoppers.

⁹ We did not include the two large discount supermarkets, Aldi and Lidl, in our analysis as neither supermarket retails online nor stocks a wide enough range of branded products to enable sufficient like-for-like comparisons with the branded products in our sample.

¹⁰ Including in circumstances where loyalty price promotions interact with other forms of promotion.

¹¹ The [data tables](#) from the consumer survey.

- 1.19 **Chapter 8** provides an overview of the findings from our analysis comparing the prices of products subject to a loyalty price promotion, with the prices charged for the same product at other supermarkets. (Appendix B provides more detail on the methodology for, and findings from, this analysis.)
- 1.20 **Chapter 9** sets out the conclusions from our review.

Who is the report aimed at?

- 1.21 This report is aimed at supermarkets that offer loyalty price promotions and their representatives. This report should also be of interest to:
- Retailers across the wider grocery market
 - Other enforcers of consumer law
 - Domestic and international consumer protection organisations.
- 1.22 Supermarkets should read the advice we provide in chapter 6, to help ensure that their loyalty price promotions are fair and do not mislead shoppers, in particular when they are alternating between loyalty price promotions and other forms of promotion such as was/now promotions.
- 1.23 We are aware that loyalty or member pricing is a feature of other retail markets and our advice, set out in chapter 6, may be of wider interest.
- 1.24 We would encourage all retailers within the grocery sector that operate loyalty schemes and that offer loyalty or member pricing, or are considering doing so, to read our report and to take action to ensure that they remain on the right side of the law.
- 1.25 All retailers may also want to take independent legal advice. While this report sets out the CMA's view of the law, the report is not a substitute for such advice.
- 1.26 Ultimately, for the time being, only a court can decide whether a particular practice is unlawful. Parliament recently passed legislation to give the CMA new powers including the ability to decide if consumer law has been broken without having to take a case to court. The Digital Markets, Competition and Consumers Act 2024 (DMCC Act) will, once the relevant provisions come into force, empower the CMA to impose remedies, which may include requiring businesses to offer compensation or other redress for consumers, and impose fines for breaches of up to 10% of a business's global turnover.

2. Loyalty pricing: an overview

Overview of the leading supermarkets' loyalty schemes

- 2.1 Almost every major supermarket and groceries discounter in the UK now has some form of loyalty scheme, offering a range of features to shoppers including points collection schemes, coupons and personalised offers, use of self-service scanners, access to competitions and experiences, as well as loyalty prices (See table 2.1 below).
- 2.2 At the forefront are Tesco's Clubcard and Sainsbury's Nectar schemes, which were launched in 1995 and 2002 respectively, and now boast a membership in the tens of millions. Until recently the core offering of both schemes was the collection of 'loyalty points' to be redeemed for money off vouchers. Indeed, while loyalty pricing has superseded loyalty points as the main incentive of membership of both schemes, the collection of loyalty points remains a core feature.¹²
- 2.3 Other supermarkets have overhauled their schemes or launched new ones in recent years. Waitrose, Co-op, and M&S have developed or relaunched existing schemes, while Asda and Lidl launched their very first schemes this decade.

Loyalty pricing

- 2.4 Loyalty pricing encompasses different forms of price promotions, including:
- **Loyalty dual price promotions** - where supermarkets offer a single product for sale at two prices: a lower price exclusively available to their loyalty scheme members, and a higher price for shoppers who are not loyalty scheme members.
 - **Loyalty bundle promotions** - where there is a loyalty offer when members buy a number of different items together. This could be a combination of items from a range of different products. For example, 'buy any 2 packs of frozen vegetables for £2'.¹³

¹² Our consumer survey found that 27% of respondents had joined at least one loyalty scheme within the last 12 months. When analysing their main, or only, motivation for joining,¹² lower prices for members (loyalty pricing) was identified as the primary motivation by 27% of respondents. Other prominent motivations cited as the main factor for joining a loyalty scheme in the last 12 months included the desire to earn rewards or money back (23%) and starting to shop at a supermarket or to shop there more frequently (20%). See Chapter 3 for more detail.

¹³ It can also include meal deals such as lunch deals or dine in deals where a combination of items from different product ranges can be purchased together for a fixed price. Meal deals have not formed part of the CMA's review.

- **Loyalty multibuy promotions** - where there is a loyalty offer available when members buy a certain number of the same item, such as 'buy 3 chocolate bars for the price of 2'.

2.5 More information on the different ways in which loyalty pricing is used by supermarkets is discussed in the 'Current scale of loyalty pricing' section below.

Other loyalty scheme features

2.6 The main features offered by supermarkets' loyalty schemes, aside from loyalty pricing, are described below. Table 2.1 summarises the key features offered by each of the loyalty schemes.

Loyalty points and rewards

- Loyalty points and rewards are a core promotional strategy of many loyalty schemes. Members earn points through purchases made at the scheme's stores (normally both instore and online, where applicable) and, in some cases, retail partners.
- Points can then be redeemed for vouchers or applied as discounts on subsequent purchases at affiliated stores or retail partners.

Personalised offers

- Personalised offers provide members exclusive discounts based on their shopping habits. These can be in the form of physical vouchers/coupons, or through offers displayed on digital channels.
- Such offers can be presented as fixed discounts off selected goods or as lower prices compared to the shelf-edge price.
- Since the introduction of loyalty pricing, supermarkets have increasingly used personalised offers as an additional way to offer further discounts to members, and in some cases, these go hand-in-hand with loyalty pricing. For example, Sainsbury's currently offers exclusive personalised offers digitally to Nectar members known as 'Your Nectar Prices' which are presented similarly to its generally available 'Nectar Prices' for all members.¹⁴

¹⁴ Sainsbury's customers can save big with new 'Nectar Prices' | Sainsbury's (sainsburys.co.uk). <https://help.sainsburys.co.uk/help/offers-promotions/your-nectar-prices>

Table 2.1 – Summary of supermarket loyalty schemes as of October 2024 (listed in order of scheme introduction)¹⁵

Supermarket	Loyalty Scheme	Launched	Loyalty Pricing	Points Scheme	Personalised Offers	Other Key Features
Tesco	Clubcard	1995	✓	✓	✓	<ul style="list-style-type: none"> • Scan as you go - Members can use a handset to scan items when shopping in store. • Earn Clubcard Points and access Clubcard Prices across Tesco Group's other businesses e.g. Tesco Mobile and Tesco Bank. • There is also a paid-for tier of the scheme 'Clubcard Plus', which currently costs £7.99/month. Members can get 10% off groceries in-store twice a month.
Sainsbury's	Nectar	2002	✓	✓	✓	<ul style="list-style-type: none"> • Digital members have access to personalised lower prices of up to 30% on frequently purchased products (branded as 'Your Nectar Prices'). • Scan as you go - Members can use a handset or mobile phone to scan items when shopping in store. • Earn and redeem points on purchases made with third-party partners.

¹⁵ Based on publicly available information from each supermarket's consumer facing websites and corporate annual reports.

Iceland	Bonus Card	2008	×	×	×	<ul style="list-style-type: none"> • Savings pot where a £1 bonus is added for every £20 saved by members. Savings pots can be redeemed against future shopping in Iceland. • Additional perks including free delivery and access to competitions. • 10% discount in-store every Tuesdays for over-60s.
Ocado	Smart Pass	2013	✓	×	×	<ul style="list-style-type: none"> • Primarily an unlimited delivery subscription service with preferential seasonal delivery slots. • Fixed discount of at least 10% on over 500 items. • Exclusive sales. • £10 voucher on membership anniversary and priority access to free product samples.
Co-op	Co-op Membership	2016 ¹⁶	✓	×	✓	<ul style="list-style-type: none"> • Members become part of the co-operative, with a mandatory £1 membership fee. • Discounts on Co-op's other services (funerals, insurance and legal services). • Competitions and access to presale tickets for certain live events.
Lidl	Lidl Plus	2020	✓	×	✓	<ul style="list-style-type: none"> • Coupons and rewards for reaching spending milestones. • Weekly coupons on select products. • Competitions

¹⁶ Co-op's membership scheme was relaunched in 2016.

Marks and Spencer	Sparks	2020 ¹⁷	×	×	✓	<ul style="list-style-type: none"> • Product giveaways, including chance to win free shopping. • Scan as you go - Members can use a handset or mobile phone to scan items when shopping in store. • Earn coffee stamps towards a free coffee.
Asda	Asda Rewards	2022 ¹⁸	×	×	×	<ul style="list-style-type: none"> • Earn 'Asda Pounds' on the purchase of select items, which are saved into a cash pot. This 'cash' can be redeemed against future purchases. • Additional rewards for reaching spending milestones.
Waitrose	MyWaitrose	2022 ¹⁹	✓	×	✓	<ul style="list-style-type: none"> • Regular weekly counter offers. • Competitions. • Scan as you go - Members can use a handset or mobile phone to scan items when shopping in store. • Perks including free coffee with any purchase and discounts at Caffè Nero. • Free copies of Waitrose in-house magazine.

¹⁷ M&S relaunched its 'Sparks' scheme in July 2020.

¹⁸ Following trials starting October 2021.

¹⁹ Waitrose relaunched its 'myWaitrose' scheme in February 2022.

Morrisons	Morrisons More	2023 ²⁰	✓	✓	✓	<ul style="list-style-type: none"> • Earn points on certain products purchased at Morrisons. • Trialling the use of scan as you go.²¹
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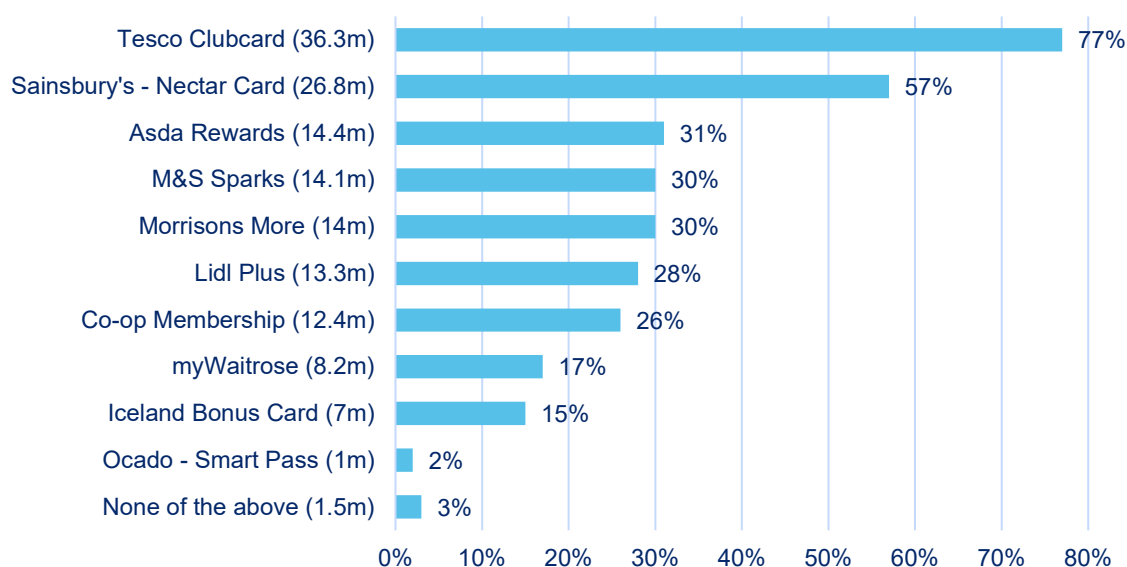
²⁰ Morrisons relaunched its 'More' scheme in May 2023.

²¹ [Morrisons pilots scan and go at six branches](#), Grocery Gazette, 04 September 2024.

Loyalty scheme membership

2.7 Most UK shoppers are members of supermarket loyalty schemes and membership of schemes is high and continues to grow as supermarkets compete to retain customers. The Grocer reported in May 2024 that 94% of shoppers are members of a supermarket loyalty scheme and on average they hold 3.4 memberships.²² Our own consumer survey similarly found widespread participation in loyalty schemes among shoppers, with 97% of shoppers members of at least one supermarket loyalty scheme.²³ The average number of memberships held is 3.1, and 1 in 5 (21%) have five or more scheme memberships²⁴ – with Tesco Clubcard being most popular (77% of regular grocery shoppers), followed by Sainsbury’s Nectar Card (57%).

Figure 2.1 – Respondents to our consumer survey with supermarket loyalty scheme memberships (%) and estimates of the number of UK members of each scheme (in millions)



Source: CMA analysis of consumer survey.

Base: UK adults (18+) who are responsible for grocery shopping in their household and regularly shop at any supermarket. Unweighted: 2,429.

Question: Which if any of the following supermarket loyalty schemes are you a member of? Please include loyalty schemes you are a member of but do not currently use. Please select all that apply.

²² [The Grocer loyalty survey](#), May 2024.

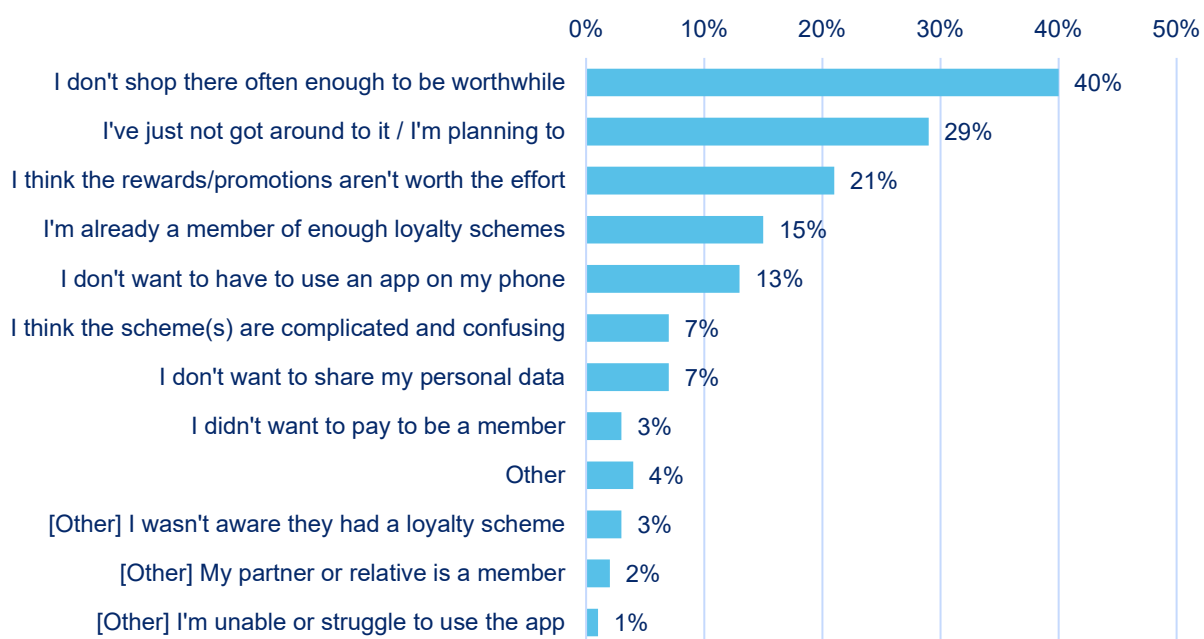
²³ Population estimates from grossing up our consumer survey suggest that this equates to 45.6m UK adult grocery shoppers being users of at least one supermarket loyalty scheme membership (95% confidence interval: 44.1; 47.1m).

²⁴ Appendix A to this report: 'Consumer survey', paragraph A.23 and Figure A.6.

Factors influencing why shoppers don't use loyalty schemes

- 2.8 Our survey found that only 3% of respondents who are regular grocery shoppers are not a member of any scheme.
- 2.9 When asked why they were not a member of loyalty schemes at supermarkets they regularly use, reasons commonly given were that they:
- do not shop at the supermarket in question often enough to make it worthwhile (the response given by 40% of respondents).
 - have not got around to it but are planning to at some point (29% of respondents).
 - think the rewards and/or promotions aren't worth the effort (21% of respondents).

Figure 2.2 – Reasons people give for not being a loyalty scheme member at supermarkets where they shop regularly



Source: Consumer survey

Base: UK adults (18+) who are responsible for grocery shopping in their household and regularly shop at any supermarket, who are not a loyalty scheme member at supermarkets regularly shopped at with a loyalty scheme. Unweighted: 1,014.

Question: You said you're not a member of the loyalty schemes at supermarket(s) that you use regularly for grocery shopping.

Why is this? Please select all that apply.

2.10 The Grocer's survey suggested that consumer apathy was most likely the main reason why shoppers do not use loyalty schemes.²⁵ Of the 310 respondents to our consumer survey who said they use their supermarket loyalty scheme memberships when grocery shopping: "less than half the time", "hardly ever" or "never":

- 34% said the rewards are not worth the effort.
- 33% said that they don't always have the card with them/don't always use the app.
- 26% said that they don't bother if they're not spending much.²⁶

Emergence of loyalty pricing

When loyalty pricing was introduced

2.11 Tesco was the first supermarket in the UK to launch loyalty pricing, with 'Clubcard Prices'. Following a short-term Clubcard Prices promotion in 2019, Tesco began introducing Clubcard Prices more widely in September 2020.²⁷ The initial focus was on dual prices on single products at its larger stores. Its launch was low key, with only 200 products having Clubcard Prices initially.²⁸ The application of Clubcard Prices has expanded significantly since then and in December 2023, it was reported that there were around 8,000 products subject to Clubcard deals.²⁹

2.12 Some other supermarkets introduced loyalty pricing between early 2022 and early 2024. The first of these was Waitrose, which introduced loyalty pricing as part of a relaunch of its 'MyWaitrose' loyalty scheme in February 2022.³⁰

2.13 Morrisons introduced loyalty pricing (currently called 'More Card Prices') in Autumn 2022.³¹ Morrisons initially began applying these to a limited selection of products in store. It has subsequently increased this to more branded and own brand products and made its loyalty pricing offers available in its online

²⁵ [The Grocer loyalty survey](#), May 2024.

²⁶ Question: You said that you use [one or more of] your loyalty card[s] or app[s] less than half of the time, hardly ever or never when shopping for groceries. What are the reasons for this? Please select all that apply.

²⁷ [Tesco introduces special 'Clubcard Prices' for customers to celebrate 100 years of great value](#)

²⁸ [Tesco offer hundreds of exclusive deals for Clubcard customers](#)

²⁹ "Promotions are back with a bang, but who will buy these brands at the rsp?" The Grocer, 15 December 2023

³⁰ ['Waitrose relaunches MyWaitrose Loyalty Programme'](#) European Supermarket Magazine, 18 February 2022

³¹ Morrisons loyalty scheme was originally called 'My Morrisons' at its launch in February 2022. It was renamed 'Morrisons More' in May 2023. Morrisons loyalty price offers were known as 'More Card Exclusive Prices' from their launch in October 2022 until October 2024 when they were renamed 'More Card Prices'.

store.³² In August 2024, Morrisons signalled its intention to substantially increase the number of products on loyalty pricing further from September 2024 to compete with Tesco and Sainsbury's.³³

- 2.14 Sainsbury's introduced loyalty pricing, with its 'Nectar Prices' in April 2023.³⁴ These were initially rolled out in incremental stages by product groups and Sainsbury's now has the second most loyalty priced products in terms of product lines, after Tesco, with around 7,000 products reported to be included in the Nectar Price scheme.³⁵
- 2.15 Co-op began a phased introduction of loyalty pricing from early 2023, announcing the introduction of in-store 'Member Prices' in April 2023.³⁶ In August 2023, it extended its member pricing to 200 'Everyday Essential' lines. Co-op's groceries loyalty pricing now covers a mix of promotions and 'Everyday Essentials'.³⁷
- 2.16 In May 2024, it was reported that Lidl had introduced loyalty price offers for Lidl Plus loyalty scheme members.³⁸ These 'Lidl Plus Offers' currently remain limited (less than ~30 products) and largely apply to own-brand products.³⁹ As this change took place during our review, Lidl Plus Offers were not part of our pricing analysis.

³² [Morrisons Annual Report & Financial Statement 2022/23](#)

Morrisons' loyalty scheme 'More Card' prices are still not available at Morrisons' owned or franchised convenience stores however.

³³ [Morrisons fires 'bazooka' at rivals with loyalty push | The Grocer](#)

³⁴ [Sainsbury's customers can save big with new 'Nectar Prices' | Sainsbury's \(sainsburys.co.uk\)](#)

³⁵ [4 reasons Sainsbury's food business is 'firing on all cylinders', Retail Gazette, 26 April 2024](#)

³⁶ [Co-op set to turbo charge its membership proposition with £240M investment and launch of new member prices - Co-op \(co-operative.coop\)](#)

³⁷ [Co-op announces biggest ever price investment on everyday essentials with members saving more - Co-op \(co-operative.coop\)](#)

³⁸ [Lidl launches loyalty prices – are they any good? - Which? News; Lidl overhauls loyalty app with addition of new weekly offers | The Grocer](#)

³⁹ The majority of Lidl's products are own brand.

Which supermarkets use loyalty pricing and in what forms

Table 2.2 - Extent of loyalty pricing in supermarkets and when this was introduced (October 2024)

Loyalty Scheme	Date loyalty pricing introduced	Is loyalty pricing currently in use?	Is loyalty pricing available on bundles and multibuys?	Is loyalty pricing used to give further discounts on other promotions?
Tesco Clubcard	September 2020 ⁴⁰	✓	✓	✗
MyWaitrose	February 2022	✓	✗	✗
Sainsbury's Nectar	April 2023	✓	✗	✗
Co-op Membership	April 2023	✓	✓	✓
Morrisons More	October 2022 ⁴¹	✓	✓	✓

Note: Ocado's loyalty pricing, which is linked to its delivery scheme, and Lidl's loyalty pricing, which developed after our main review period, are excluded.

Factors that appear to be driving supermarkets' use of loyalty pricing?

2.17 The decision by some supermarkets to adopt loyalty pricing appear to reflect a number of inter-related factors, including:

- to increase loyalty scheme membership and engagement
- the perceived success of Tesco's Clubcard Prices; and
- that increased use by shoppers of loyalty schemes to access loyalty prices, gives supermarkets richer consumer shopping data, with the potential for additional data-generated benefits and income for the supermarket.

⁴⁰ Following a limited-time trial in May 2019.

⁴¹ Loyalty pricing was introduced under the previous 'My Morrisons' loyalty scheme.

2.18 In a highly competitive sector, supermarkets have sought to encourage consumer loyalty. Some media commentators have linked the success of loyalty pricing to a growth in membership of supermarkets' loyalty schemes.⁴² For example, The Grocer's loyalty survey indicated that shoppers value the instant discounts offered by loyalty prices more highly than any other membership benefit, by a significant margin.⁴³

Current scale of loyalty pricing

2.19 Collectively at Tesco, Sainsbury's, Morrisons, Co-op and Waitrose, for the period November 2023 to January 2024 inclusive, the total revenue generated from sales of products subject to any type of loyalty promotion was over £5 billion (or approximately 22% of total grocery revenues for the supermarkets who offer loyalty price promotions.) This was up from an equivalent figure of approximately £3.5 billion (or 18% of the supermarkets' total grocery revenues) during the first three-month period when all five of these supermarkets used loyalty pricing, April to June 2023.⁴⁴

2.20 It should be noted that this increased revenue is likely due to the supermarkets moving away from other types of promotions in favour of loyalty promotions as well as increases in sales of products subject to a loyalty promotion. The total number of 'active members' of the five supermarkets' loyalty schemes went up from approximately 43.3 million in April 2023 to approximately 48.7 million in January 2024.⁴⁵

⁴² See example: [The secret power of supermarket loyalty cards - Investors' Chronicle](#), 16 May 2024

⁴³ 'The Grocer loyalty survey', May 2024. The Grocer's loyalty survey found that 54% of shoppers asked valued instant discounts the most of any loyalty scheme benefit. The next most valued benefit of loyalty schemes was 'vouchers on future shops,' the response of 22% of shoppers.

⁴⁴ The figures for supermarkets' revenues from sales of products subject to loyalty promotions in this paragraph are based on the supermarkets' aggregated responses to our requests for information. The figures of 22% and 18% of total grocery revenues for the relevant periods are averages across the five supermarkets. The actual percentage of grocery revenues that came from sales of products subject to loyalty promotions during the periods referred to varied across the five supermarkets.

⁴⁵ Each of the supermarkets used their own criteria to define an 'active member' of their loyalty scheme when responding to our information requests. In general 'active member' means a shopper who has used their supermarket loyalty scheme membership when making a purchase in the recent past (e.g. within the past 12 months). The figures we have used regarding supermarkets' revenues from sales of products subject to loyalty promotions and their loyalty scheme membership are based on the supermarkets' aggregated responses to our information requests. The figures for loyalty scheme membership therefore differ from the figures calculated using our consumer survey responses as a basis.

Where are loyalty prices available?

Table 2.3 – availability of loyalty pricing across in-store formats and online (October 2024)

Supermarket	Small (“local”) stores	Large stores	Online
Tesco	✓	✓	✓
Sainsbury’s	✗	✓	✓
Morrisons	✗	✓	✓
Co-op⁴⁶	✓	N/A	✓
Waitrose⁴⁷	✓	✓	✓

Other types of promotional activity

- 2.21 Some supermarkets have moved towards loyalty pricing as a core (or sole) component of their promotional offering. For example, all of Tesco’s price promotions on single items are now only available to its Clubcard (or Clubcard Plus) members.⁴⁸
- 2.22 However, other supermarkets that offer loyalty pricing continue to also offer, to varying degrees, more traditional forms of promotional activity alongside loyalty pricing (described below).

Reference (Was/Now) Pricing

- 2.23 Standard reference pricing promotions – that is offers that demonstrate savings by referring to another price e.g. was £x, now £y – continue to be offered in the supermarkets which have a more limited loyalty price offering. We discuss the interaction between loyalty pricing and other forms of promotion (such as “was/now” promotions) in Chapters 6 and 7.

⁴⁶ “Member Prices are not available in independent societies, Midcounties, Central England, Southern or Chelmsford Star co-operatives, some Co-op franchise stores or in non-Co-op branded stores (such as Nisa). Individual product prices, inclusive of those contained within these offers may vary online”- [Co-op Membership - Membership that makes a difference - Co-op \(coop.co.uk\)](#)

⁴⁷ Excludes “Little Waitrose at Shell” service stations.

⁴⁸ Tesco still has some bundle offers which are available to non-Clubcard customers, e.g. its Lunch Meal Deal.

- 2.24 As of October 2024, Morrisons and Waitrose continue to have reference pricing promotions which significantly outnumber the number of loyalty price promotions.⁴⁹ Co-op also continues to offer some reference price promotions with no additional discounts to members.
- 2.25 Both Morrisons and Co-op also have some promotions where the product is discounted for all shoppers and, at the same time, a further loyalty discount is available only to members. While these are fairly limited in Morrisons, the majority of reference price promotions in Co-op also have an additional loyalty dual price promotion. These concurrent promotions are discussed in more detail in Chapters 6 and 7.

Multibuys and Bundle promotions available to all shoppers

- 2.26 As of October 2024, all the major supermarkets which use loyalty pricing continue to offer multibuys and bundles to all customers.⁵⁰ This includes long-term or 'perpetual bundles' to cover lunch meal deals, which follow the same promotional pattern as other types of bundles.⁵¹
- 2.27 Similar to reference pricing promotions, Co-op offers deeper discounts for members on bundle promotions, where there is one discounted bundle price for non-members, and a further discounted bundle price for members.
- 2.28 Multibuys and bundle promotions are available across a range of products, including fresh fruit and vegetables, chilled and frozen goods, and food cupboard categories.

Non-promotional and 'regular' pricing strategies

- 2.29 It is also important to note that loyalty pricing is only one element of supermarkets' pricing strategies. For example, in response to growing competition from discounters, such as Aldi and Lidl, some supermarkets have also adopted Everyday Low Pricing (EDLP) and Price Match to signify long term value to shoppers. In contrast to loyalty pricing, EDLP and Price Match priced products are not presented as temporary price reductions but as 'permanent' reductions or the new 'regular' selling price for these products.

⁴⁹ ['Morrisons fires 'bazooka' at rivals with loyalty push' The Grocer, 28 August 2024](#)

⁵⁰ We note that although Tesco still offers its lunchtime 'Meal Deal' to non-Clubcard members, they are charged a higher price for this than Clubcard members.

⁵¹ Perpetual bundles are offers which allow shoppers to buy multiple items for a lower price than the total price it would cost if each item were bought individually in separate transactions. These offers are not time-limited and are normally available to shoppers throughout the year.

Anticipated future trends in loyalty pricing

- 2.30 Loyalty pricing in the groceries sector is continuing to evolve. In fact during our review, we observed changes including those supermarkets who already use loyalty pricing increasing the number of products which are regularly subject to loyalty pricing. While Tesco remains the only supermarket to expand loyalty pricing into its portfolio of convenience stores, it is possible competitors such as Sainsbury's will do the same.⁵² Sainsbury's has stated that its customer response to Nectar Prices has: "exceeded our expectations, strengthening value perception and driving Nectar participation levels, with more than five million new Nectar Digital Collectors since launch".⁵³
- 2.31 More broadly, some retail sector analysts anticipate that supermarkets will make increasing use of the data they collect from customers via their loyalty memberships, beyond making their advertising more targeted and effective.⁵⁴ Supermarkets are expected to increasingly use this data to offer shoppers more personalised prices for products which shoppers' data indicates will be of interest to them, potentially also increasing the use of artificial intelligence (AI) to facilitate this.⁵⁵
- 2.32 Personalised pricing is a strategy that some supermarkets have already adopted to a limited extent, by offering shoppers money off coupons, either printed at the till or added to their online accounts, for specific products which their shopping habits have shown they are likely to be interested in.⁵⁶ Such personalised pricing strategies are likely to become more sophisticated as supermarkets increase the amount of data they have collected via their loyalty schemes on shoppers' purchasing behaviour and begin to make greater use of AI.⁵⁷
- 2.33 Beyond those supermarkets that have introduced loyalty pricing, other retailers that sell groceries are also beginning to offer promotions similar to loyalty pricing. For example, Ocado provides an exclusive discount of at least 10% on select products for members of its Smart Pass delivery subscription service.⁵⁸ Amazon's grocery subsidiary Amazon Fresh announced it is

⁵² Sainsbury's also recently announced an overhaul of its convenience store estate, reflecting a commitment to this store format | [Sainsbury's to overhaul convenience store range](#), The Grocer, 11 October 2024

⁵³ [Sainsbury's Preliminary Results for the 52 weeks ended 2 March 2024](#)

⁵⁴ See, for example: 'The secret power of supermarket loyalty cards', Investors' Chronicle, 16 May 2024

⁵⁵ 'Tesco plans to expand use of AI to personalise how people shop', Financial Times, 17 September 2024

⁵⁶ 'Battle of the Grocers: Which UK supermarket does member pricing best?', Grocery Gazette, 21 October 2024

⁵⁷ 'Tesco plans to expand use of AI to personalise how people shop', Financial Times, 17 September 2024

⁵⁸ [Ocado: Ocado Smart Pass](#)

launching exclusive discounts for members of its Prime subscription scheme.⁵⁹

2.34 In contrast however, some supermarkets continue not to use loyalty pricing. For example, Asda has neither trialled nor introduced loyalty pricing offers for its Asda Rewards members despite being one of the largest UK supermarkets.⁶⁰

2.35 We look at the important issues relating to the increasing use of loyalty pricing by supermarkets in this report. For example, in Chapter 3 we discuss how loyalty pricing is influencing consumer behaviour and in Chapter 4 we discuss the potential barriers to certain groups accessing loyalty prices.

⁵⁹ [Is Amazon Prime still worth it without grocery perks? | Analysis and Features | The Grocer](#)

⁶⁰ [Asda hails price focus and loyalty scheme for delivering growth \(marketingweek.com\)](#)

3. Shopper attitudes to loyalty pricing and impacts on their behaviour

Introduction

- 3.1 Loyalty pricing has become a feature of supermarket pricing. However, some consumers, consumer groups and commentators have raised concerns that limiting lower prices to loyalty scheme members is unfair, as not everyone is able or willing to sign up to these schemes.^{61,62} Others have questioned whether these promotions are genuine, with some shoppers believing that non-members are being charged more than the regular selling price.⁶³ For example, Which?⁶⁴ and a Channel 5 documentary, *'the big loyalty card rip-off'*,⁶⁵ have raised doubts about whether shoppers trust loyalty pricing and whether these promotions genuinely provide savings.
- 3.2 To understand how common such views are among shoppers, and attitudes to loyalty pricing in the grocery sector more broadly, we commissioned a nationally representative consumer survey.⁶⁶ We have also used the survey to explore how loyalty pricing is impacting on shopping behaviour. For example, have loyalty prices led to increased scheme membership, greater use of loyalty schemes by existing members, or shifts in where people choose to shop?
- 3.3 In addition to commissioning a consumer survey, we have also considered other available sources of information and research to understand shoppers' views of loyalty pricing in the grocery sector. This involved reviewing publicly available reports and surveys, social media channels, online forums and consumer complaints.
- 3.4 Based on these findings, we have assessed the broader impact of loyalty pricing on shopping behaviour and its potential effects on competition within the sector.

⁶¹ [Which? uncovers dodgy-looking supermarket loyalty discounts - Which? News](#)

⁶² In Chapter 4, we explore potential barriers such as age, address and digital device-based restrictions.

⁶³ [Exclusive: More than half of shoppers think supermarket loyalty prices are a scam | Retail Week \(retail-week.com\)](#)

⁶⁴ [Loyalty discounts aren't always as good as they look: Which? investigation - Which? News](#)

⁶⁵ The big loyalty card rip-off: www.channel5.com/show/loyalty-cards-are-they-worth-it

⁶⁶ See paragraph 1.10 and footnote 8 above.

Shopper attitudes to loyalty pricing

3.5 With the ongoing debate surrounding the pros and cons of loyalty pricing, it is valuable to understand whether shoppers think loyalty pricing is fair.

3.6 Several external reports and surveys have examined shoppers' views on loyalty pricing. For example, research by The Grocer⁶⁷ in May 2024 revealed that 54% of shoppers 'valued' instant discounts (loyalty pricing) more than promotional offers on future shops (such as vouchers). However, other reporting has questioned whether loyalty pricing is fair and offers good value:

- a Which? survey from June 2024 found that 55% of 1,970 respondents believed non-member prices to be higher than the usual selling price. Although 29% also thought that non-member prices are the same or lower than usual prices.⁶⁸
- Retail Week reported in March 2024 that, although 56% of shoppers felt loyalty prices offered good value for money, 59% of shoppers believed that loyalty discounts in supermarkets are made to look higher than they are. More than half agreed that the new schemes made it harder to decipher which supermarket offers the best value.^{69,70}
- a Channel 5 documentary, *the big loyalty card rip-off*, first broadcast in January 2024, featured a panel of shoppers expressing the view that loyalty prices often appear to be the regular price, while the non-loyalty price seems artificially inflated to make the loyalty discount look more appealing.⁷¹

⁶⁷ The Grocer's survey of over 1,000 main household shoppers indicated that 54% of these valued instant discounts (i.e. loyalty pricing) the most, which was significantly more than the next two most valued loyalty scheme benefits (vouchers on future shops, valued by 22% of these shoppers the most; and points and vouchers for experiential activities, valued by 10% of these shoppers the most. See here: [How shoppers view supermarket loyalty card pricing | The Grocer](#).

⁶⁸ In August 2024, Which? published the results of a survey conducted in June 2024, based on online responses from 1,970 people who had shopped at least once in the preceding six months survey (see here: [Loyalty discounts aren't always as good as they look: Which? investigation - Which? News](#)). The survey revealed that loyalty prices have become the most common type of promotion, with 55% of shoppers having made a purchase using a loyalty discount in the past six months. The full report can be found here: [Loyalty Pricing Investigation Policy Report October 2024](#).

⁶⁹ [Exclusive: More than half of shoppers think supermarket loyalty prices are a scam | Retail Week \(retail-week.com\)](#)

⁷⁰ Similarly, research conducted at the Retail Technology Show (RTS) - which is based on over 1,000 shoppers at the RTS show at London Olympia on the 24 and 25 April 2024 - highlighted that 52% of respondents think retailers increase regular prices, and 49% feel non-members are being overcharged: [RTS research - Retail Connections](#)

⁷¹ The big loyalty card rip-off: www.channel5.com/show/loyalty-cards-are-they-worth-it

- 3.7 Social media monitoring⁷² and complaints data⁷³ have also highlighted concerns, with some shoppers calling non-member prices a “punishment,” “obscene,” or “overpriced.” Additionally, there are concerns that requiring membership to access lower prices may disproportionately affect certain groups, such as those unwilling to share their data or those unable to participate due to barriers like minimum age restrictions or not having access to a smartphone. These issues are explored further in **Chapters 4 and 5**.
- 3.8 To better understand the impact of loyalty pricing on shoppers, our consumer survey aimed to assess whether these findings reflect the views of UK shoppers, and to explore the broader effects of loyalty pricing on shopping behaviour. Our analysis also explored how attitudes to loyalty pricing vary between different types of shoppers. For example, to help assess whether some shoppers have particularly strong views, we have examined differences based on factors such as age and financial status.⁷⁴

The requirement to join a loyalty scheme in order to access loyalty prices

- 3.9 In September 2023 and more recently in October 2024 Which?^{75,76} raised concerns about the exclusivity of loyalty pricing, noting that some shoppers face barriers to joining, such as age, address-based restrictions, limited access to digital devices, or privacy concerns.⁷⁷
- 3.10 In the following section, we examine whether shoppers consider it fair that some promotions are only available to loyalty scheme members at some supermarkets.⁷⁸

⁷² The CMA used social media monitoring software to review consumer sentiment.

⁷³ This includes enquiries and complaints made to the CMA (including correspondence from MPs on behalf of their constituents), Citizens Advice and Advice Direct Scotland.

⁷⁴ Where we refer to ‘financial status’ or ‘financial wellbeing’ this is reporting on a standard demographic available from the survey. It is a self-reported assessment of a survey panellist’s financial situation that has been updated no longer than six months ago and is sometimes used as a subjective proxy for income. The categories are: ‘Living comfortably’, ‘Doing alright’, ‘Just about getting by’, ‘Finding it quite difficult’ and ‘Finding it very difficult’.

⁷⁵ [Which? uncovers dodgy-looking supermarket loyalty discounts - Which? News](#)

⁷⁶ [Revealed: the millions of people excluded from big store loyalty schemes - Which? News](#)

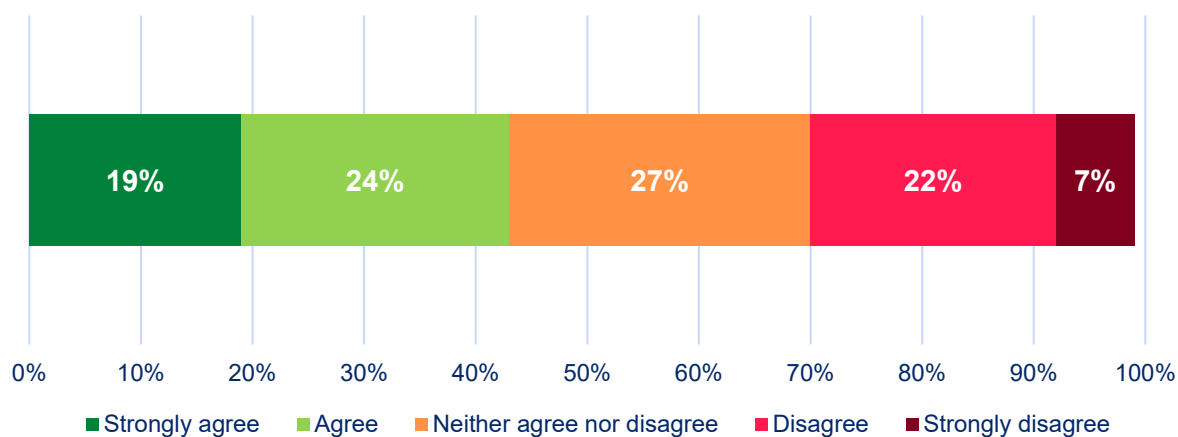
⁷⁷ Chapters 4 and 5 explore these potential barriers in more detail.

⁷⁸ To note, while some shoppers may consider this unfair, we do not consider requiring customers to join a loyalty scheme to access loyalty pricing likely to constitute a prohibited aggressive practice under the CPRs. Aggressive commercial practices, as defined under Regulation 7 of the CPRs, are those that intimidate or exploit consumers in a way that restricts their ability to make free and informed choices. Additionally, this requirement does not fall within any of the automatically banned practices under the CPRs, which are considered unfair in all circumstances.

Do shoppers think it is fair that members pay lower prices for some products?

3.11 Our consumer survey found that a significant proportion of shoppers consider it unfair that loyalty scheme members pay lower prices for some products than non-members. Specifically, 43% of respondents strongly agree or agree that it is unfair that lower prices are only available to loyalty scheme members, with those in the oldest age group (70+) being the least likely to consider it unfair (at 33%) compared with other age groups. By comparison, 30%⁷⁹ of respondents disagree or strongly disagree that loyalty pricing is unfair.

Figure 3.1 – The extent to which shoppers agree or disagree that loyalty pricing is unfair



Source: Consumer survey

Base: UK adults (18+) who are responsible for grocery shopping in their household. Unweighted: 2,436.

Question: [Introductory text: Some supermarkets operate loyalty schemes that offer grocery products at lower prices for members and a higher price for non-members. These lower prices for members of loyalty schemes are called 'loyalty prices'.] To what extent do you agree or disagree with the following statement: it's unfair that lower prices are only available to members of loyalty schemes?

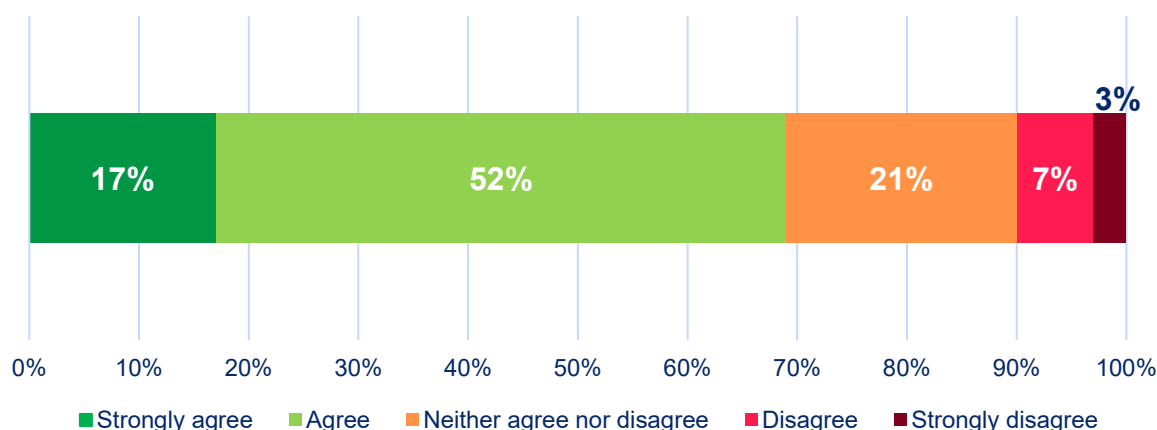
Do shoppers think that loyalty pricing offers good savings for members?

3.12 Our consumer survey found that the majority (69%) of shoppers believe that loyalty pricing does offer good savings for members.⁸⁰ This was higher among those who use all their supermarket memberships more than half the time when shopping, where 73% strongly agree or agree that the prices provide good savings, compared with 65% of those who use their memberships with varying frequency.

⁷⁹ The difference between 30% and Figure 3.1 – where 22% disagree and 7% strongly disagree – is due to rounding.

⁸⁰ Similarly, the Walnut Unlimited research for Retail Week, as referenced in paragraph 6, found that 56% of shoppers felt loyalty prices offered good value for money.

Figure 3.2 – The extent to which shoppers agree or disagree that supermarket loyalty prices provide good savings for scheme members



Source: Consumer survey

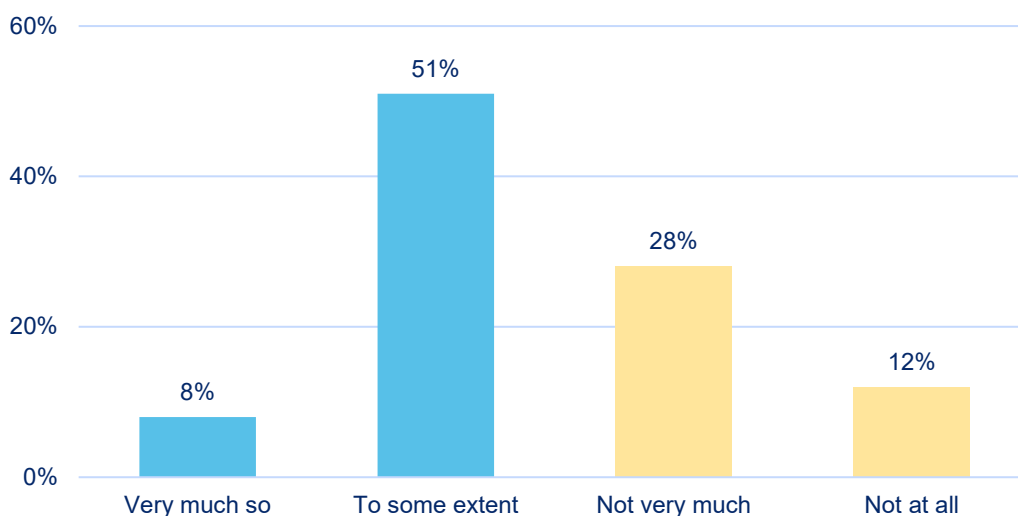
Base: UK adults (18+) who are responsible for grocery shopping in their household. Unweighted: 2,439.

Question: [Introductory text: Some supermarkets operate loyalty schemes that offer grocery products at lower prices for members and a higher price for non-members. These lower prices for members of loyalty schemes are called 'loyalty prices'.] To what extent do you agree or disagree with the following statement: supermarket loyalty prices provide good savings for members?

3.13 Despite the majority of shoppers agreeing that loyalty prices offer good savings, 40% of shoppers do not trust that the loyalty price for members is a genuine saving on the usual price. Amongst the 60% who do trust that it is a genuine saving (either very much so or to some extent),⁸¹ the degree of trust varies according to age and financial status. Trust is highest among older individuals (71% of those over 70) and those in comfortable financial positions (65%), while it drops to 41% among those finding things very difficult financially.

⁸¹ The difference between 60% and Figure 3.3 – where 8% say they trust very much so, and 51% to some extent – is due to rounding.

Figure 3.3 – The extent to which shoppers trust that the loyalty price for members is a genuine saving on the usual price



Source: Consumer survey

Base: UK adults (18+) who are responsible for grocery shopping in their household. Unweighted: 2,436.

Question: Thinking about a supermarket that is offering groceries at a lower 'loyalty price' for members and a higher price for non-members...how much do you trust that the loyalty price for members is a genuine saving on the usual price?

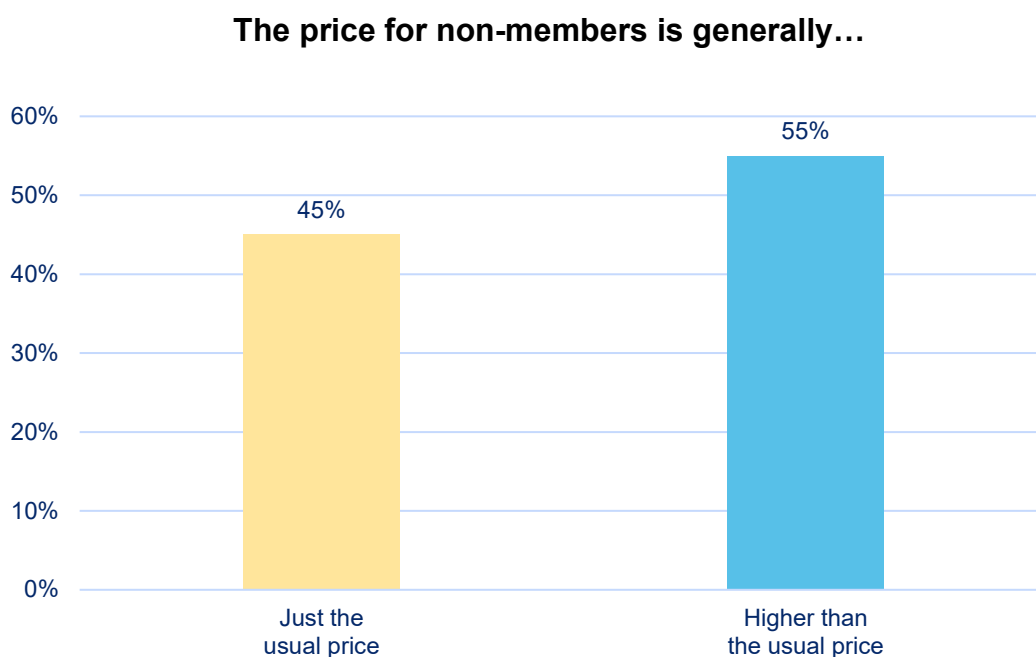
Do shoppers think the non-member price is the usual price?

3.14 In line with findings from the Which? report,⁸² where 55% of respondents believed non-member prices were inflated, and Retail Week's report that 59% of shoppers felt supermarket loyalty price discounts were made to look higher than they are,⁸³ our survey similarly found people are more sceptical about the price for non-members. Over half (55%) of respondents think that non-member prices are higher than the price usually charged for a product, with this view most common among younger shoppers (71% of those aged 18-29 and 65% of those aged 30-39).

⁸² Loyalty Pricing Investigation Policy Report October 2024. See here: [Loyalty Pricing Investigation Policy Report October 2024](#)

⁸³ [Exclusive: More than half of shoppers think supermarket loyalty prices are a scam | Retail Week \(retail-week.com\)](#)

Figure 3.4 – Shoppers’ views on the price charged to non- members during a loyalty promotion



Source: Consumer survey

Base: UK adults (18+) who are responsible for grocery shopping in their household. Unweighted: 2,427.

Question: Thinking again about a supermarket that is offering groceries at a lower 'loyalty price' for members and a higher price for non-members, which of the following statements comes closest to your view on the price for non-members: the price for non-members is generally just the usual price/higher than the usual price/don't know?

- 3.15 Those who described themselves as living comfortably are significantly more likely to think the non-member price is generally just the usual price (at 53%) compared with the overall figure of 45% and with those in all other financial status groups.
- 3.16 The next section explores whether these attitudes influence shopper behaviour, including their store choice, how often they use a store, and the extent to which they compare prices.

Influence of loyalty pricing on shopping behaviour

- 3.17 External research has explored whether loyalty pricing is impacting on shopper behaviour. For example:

- The Grocer⁸⁴ reported in May 2024 that 27% of shoppers it surveyed said they are switching more of their shopping to a supermarket offering loyalty pricing, 25% said they joined a new loyalty scheme and a further 17% said they had reactivated their membership of a loyalty scheme.

⁸⁴ [How shoppers view supermarket loyalty card pricing | The Grocer](#)

- A Mintel report – Supermarkets – UK - 2023 – reported that over two-thirds of those who shop with supermarkets who offer loyalty schemes say the promotions offered as part of schemes have driven their use of that store in the past year, rising markedly for those who spend the most at Tesco and Sainsbury's.⁸⁵

3.18 Understanding whether and how loyalty pricing is influencing shopper behaviour can help give some insights into whether it is affecting supermarket competition. For example, if loyalty pricing makes certain shoppers less likely to shop around, it may reduce the pressure on supermarkets to innovate or compete on prices. Furthermore, if some shoppers are less likely to compare prices when products have a loyalty price, competition could weaken as supermarkets feel less need to maintain competitive pricing for all customers.

3.19 However, identifying the specific impact of loyalty pricing on shopper behaviour is challenging. As described in chapter 2, loyalty pricing is embedded within broader loyalty scheme offerings and operates alongside the supermarkets' other pricing strategies.⁸⁶ This can make it difficult to distinguish the effects of this promotion from other member and shopper benefits, such as collecting and spending points, personalised promotions, or price matching.

3.20 In addition, as also described in chapter 2, the supermarkets' loyalty price offerings vary in their maturity and scale. Additionally, not all supermarket loyalty schemes offer loyalty price promotions.⁸⁷ These factors influence the visibility of these promotions and the extent to which they can impact shopper behaviour.

3.21 In this context, our consumer survey has assessed the impact of loyalty pricing on shopper behaviour.

Has loyalty pricing increased loyalty scheme membership?

3.22 As discussed in Chapter 2, our consumer survey revealed widespread participation in loyalty schemes, with 97% of UK shoppers being members of

⁸⁵ [UK Supermarkets Market Report 2023-2028 | Trends Analysis \(mintel.com\)](#) - The base for this analysis was internet users aged 16+ who are responsible/jointly responsible for grocery shopping in their household and spend the most in a typical month with a retailer who operates a loyalty/reward scheme (1,496 total, 480 Tesco, 304 Sainsbury's, 279 Asda, 124 Morrisons and 176 Lidl).

⁸⁶ Such as Price Match and Everyday Low Pricing (EDLP).

⁸⁷ See paragraphs 3.11-3.16 above for details on the emergence of loyalty pricing.

at least one supermarket loyalty scheme. On average, shoppers hold three memberships and, notably, 1 in 5 (21%) have five or more.⁸⁸

3.23 Our consumer survey found that 27% of respondents had joined at least one loyalty scheme within the last 12 months. When analysing their main, or only, motivation for joining,⁸⁹ lower prices for members (loyalty pricing) was identified as the primary motivation by 27% of respondents. Other prominent motivations cited as the main factor for joining a loyalty scheme in the last 12 months included the desire to earn rewards or money back (23%) and starting to shop at a supermarket or to shop there more frequently (20%).

Figure 3.5 – Main, or only, reason for joining loyalty scheme(s) within the last 12 months (top 5 shown only)



Source: CMA analysis of consumer survey.

Base: UK adults (18+) who are responsible for grocery shopping in their household and regularly shop at any supermarket, who joined a supermarket loyalty scheme within the last 12 month. Unweighted: 550.

Questions: You said that you joined [one or more of] the loyalty scheme[s] within the last 12 months. What prompted you to join [this / those] scheme[s] within the last 12 months? And what would you say is the main reason you joined [this / those] scheme[s]?

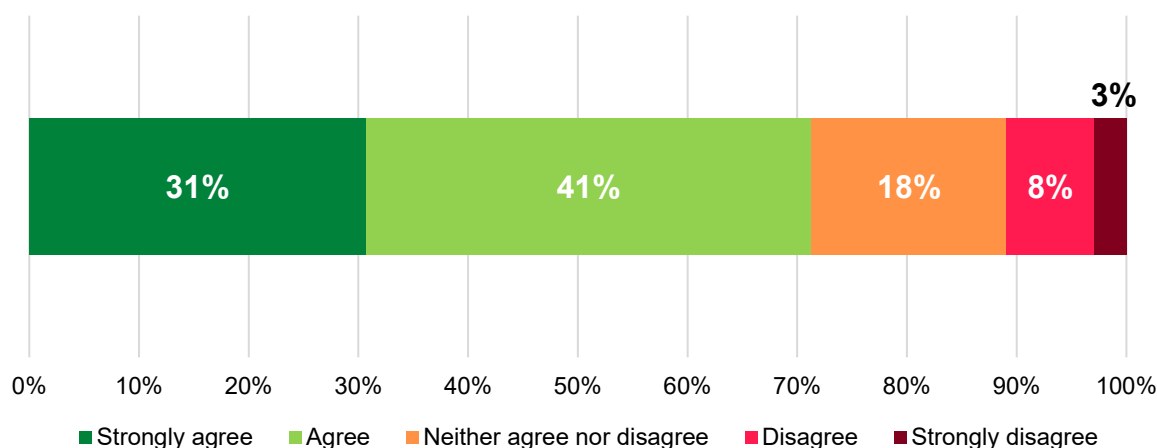
3.24 Our survey also found that 72% of respondents strongly agree or agree with the statement: *'lower loyalty prices make me feel like I have to join supermarket loyalty schemes to save money.'* This sentiment is especially

⁸⁸ See Chapter 2, paragraph 2.7 and Appendix A, paragraph A.23 and Figure A.6.

⁸⁹ Those respondents who – in the preceding question which allowed multiple reasons to be selected – identified more than one motivation for enrolling in a loyalty scheme in the past 12 months were then asked to identify their single, main reason for joining the scheme. The analysis described here combines these responses with those of the respondents who identified only one reason initially.

pronounced among younger shoppers, with 83% of those aged 18-29 agreeing, compared with 58% of shoppers aged over 70.

Figure 3.6 – The extent to which shoppers agree or disagree that lower loyalty prices for members make them feel like they have to join supermarket loyalty schemes to save money



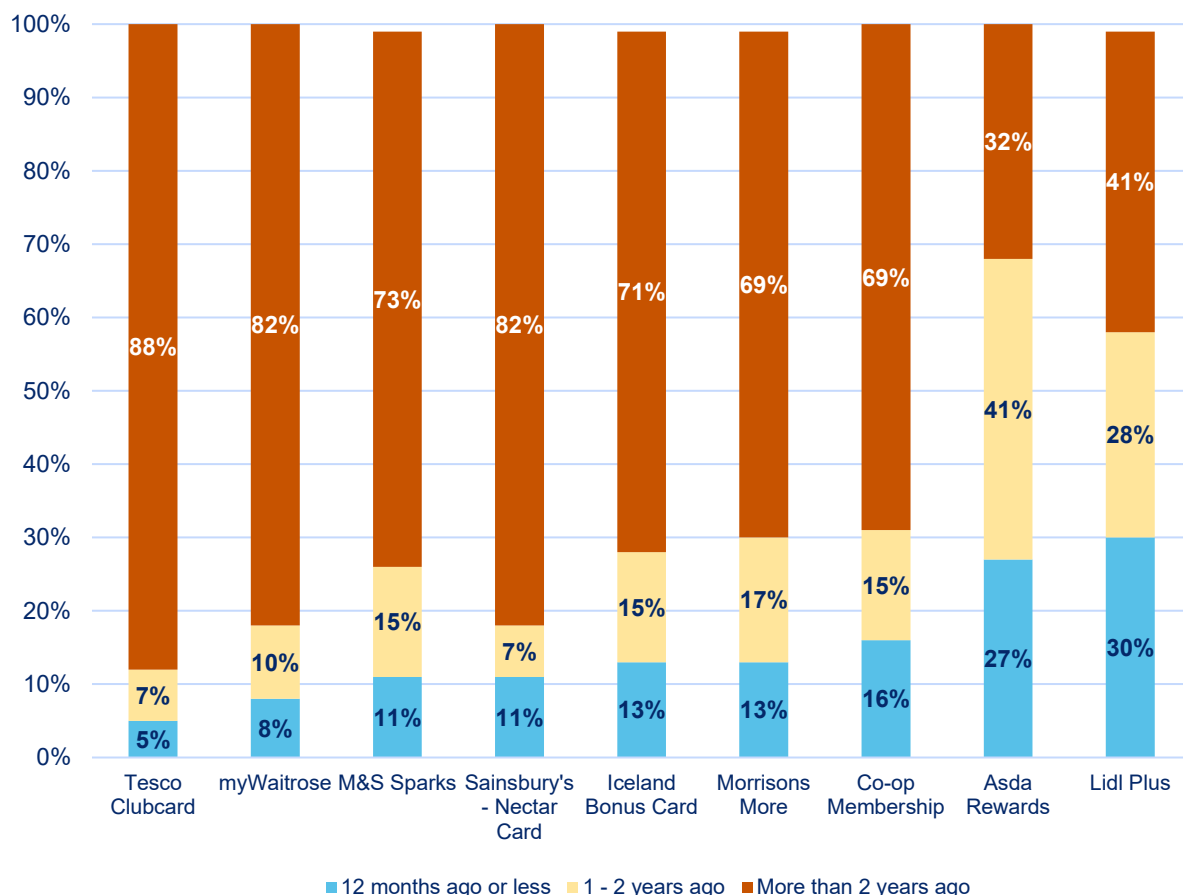
Source: Consumer survey

Base: UK adults (18+) who are responsible for grocery shopping in their household. Unweighted: 2,437.

Question: [Introductory text: Some supermarkets operate loyalty schemes that offer grocery products at lower prices for members and a higher price for non-members. These lower prices for members of loyalty schemes are called 'loyalty prices'.] To what extent do you agree or disagree with the following statement: Lower loyalty prices make me feel like I have to join supermarket loyalty schemes to save money?

3.25 Interestingly, however, the loyalty schemes with the highest proportion of new joiners within the last year - Lidl Plus and Asda Rewards (30% and 27%, respectively) - do not offer loyalty price promotions or, in the case of Lidl, have only recently introduced them for a limited range of products. This finding indicates that a range of factors are prompting shoppers to sign up to loyalty schemes and that loyalty pricing is not the only driver of new membership growth.

Figure 3.7 – How recently loyalty membership schemes were joined, by supermarket



Source: Consumer survey.

Base: UK adults (18+) who are responsible for grocery shopping in their household and regularly shop at any supermarket, who are a supermarket loyalty scheme member. Unweighted: Tesco Clubcard: 1,863, myWaitrose: 465, M&S Sparks: 790, Sainsbury's Nectar Card: 1,378, Iceland Bonus Card: 361, Morrisons More: 687, Co-op Membership: 642, Asda Rewards: 634, Lidl Plus: 637⁹⁰.

Question: When did you join this loyalty scheme/these loyalty schemes? If you're not sure, please give your best estimate.

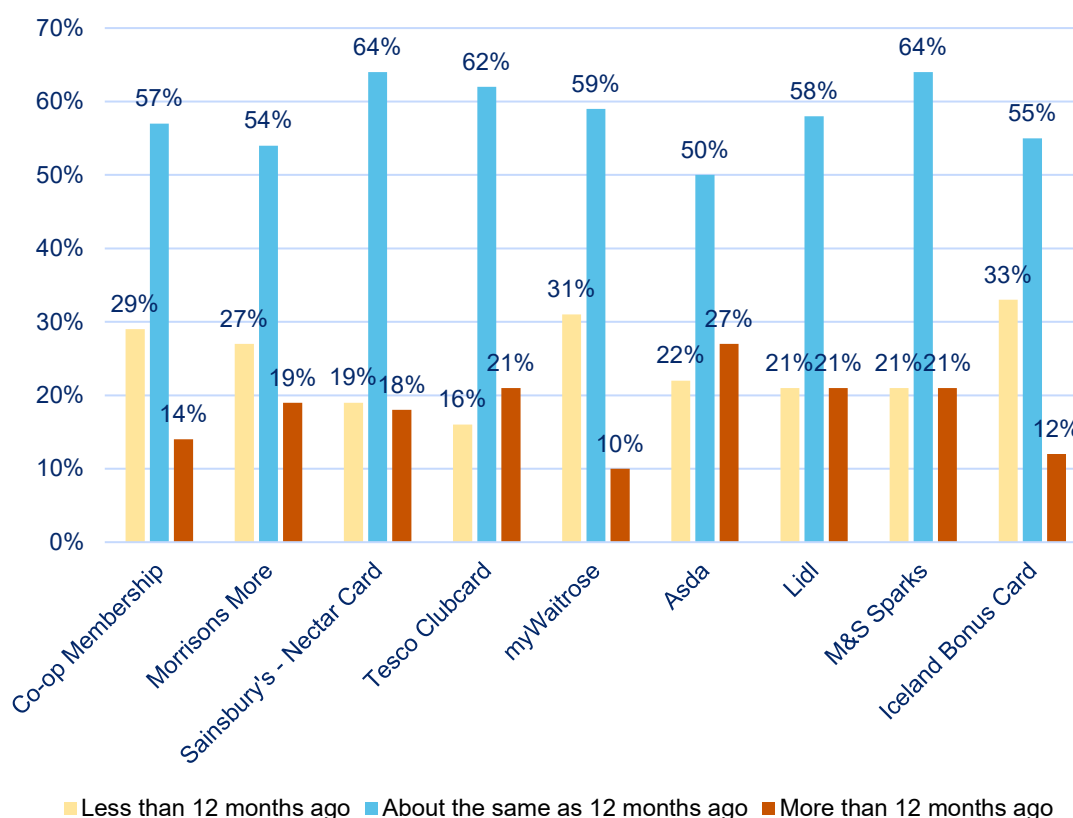
3.26 The disparity in recent membership growth between these schemes may also be due to their relative longevity. For example, Tesco and Sainsbury's, the two supermarkets with the largest loyalty schemes in the UK, may have a more saturated membership base, resulting from more gradual year-on-year growth over a long period. On the other hand, the higher membership growth in the last 12 months in Lidl Plus and Asda Rewards could be attributed to their recent launch or refreshing of their loyalty scheme offering. An indication that schemes that do not offer loyalty pricing are competing and attracting new members too.

⁹⁰ A comparable breakdown for Ocado – Smart Pass members is not provided, as the base is too low to report on (only 39 respondents said they were a member of Ocado – Smart Pass). See Appendix A for more detail on base sizes.

Has loyalty pricing increased how often loyalty schemes are used?

3.27 Respondents to our consumer survey were asked whether they use their loyalty scheme more than, less than or about the same compared to 12 months ago; this was asked separately for each scheme they are a member of, but only if they had joined it more than 12 months ago. The proportion who said that they use it more than 12 months ago varied by supermarket loyalty scheme, as may be seen in Figure 3.8 below and in the published tables.⁹¹

Figure 3.8 – How loyalty scheme usage has changed compared to 12 months ago for those who have been a member for more than 12 months, by supermarket



Source: Consumer survey.
 Base: UK adults (18+) who are responsible for grocery shopping in their household and regularly shop at any supermarket, who have had a supermarket loyalty scheme membership for more than 12 months. Unweighted: Tesco Clubcard: 1,780, myWaitrose: 440, Sainsbury's Nectar Card: 1,258, Morrisons More: 611, Co-op Membership: 573, Asda Rewards: 469, Lidl Plus: 468, M&S Sparks: 735, Iceland Bonus Card: 316.⁹²

⁹¹ ANNEX, Table 16

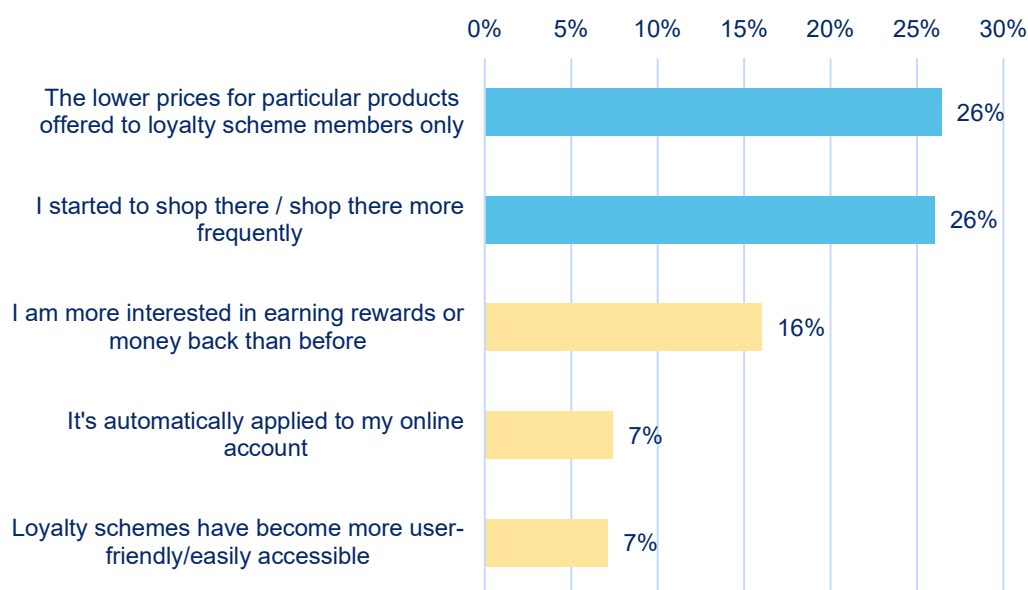
⁹² A comparable breakdown for Ocado – Smart Pass members is not provided, as the base is too low to report on (only 39 respondents said they were a member of Ocado – Smart Pass). See Appendix A for more detail on base sizes.

Ocado – Smart pass is not included on this chart due to the low base size.

Question: Do you use your loyalty card or app for each of the following schemes more than, less than or about the same compared to 12 months ago?

3.28 The survey results also show that loyalty pricing is a factor driving increased engagement with loyalty schemes. For example, when analysing the main, or only, reason for their increased usage over the past 12 months,⁹³ 26% of respondents cited lower prices for members (loyalty pricing) and 26% cited starting to shop at, or more frequent shopping at, a particular store as their top motivation. This was followed by 16% who said their interest in earning rewards or cash back had increased.

Figure 3.9 – Main, or only, reason why loyalty scheme(s) used more than 12 months ago (top 5 shown only)



Source: CMA analysis of consumer survey.

Base: UK adults (18+) responsible for grocery shopping in household and regularly shop at any supermarket, who have had a supermarket loyalty scheme membership for more than 12 months, and use it more than 12 months ago. Unweighted: 702

Questions: You said that you use [one or more of] your loyalty card or app[s] more than 12 months ago. What are the reasons for this? And what would you say is the main reason you use [one or more of] your loyalty card or app[s] more than 12 months ago?

3.29 Comparisons between supermarkets that offer loyalty pricing (such as Tesco, Morrisons, and Sainsbury's) and those that don't (such as Asda) or only do it to a limited extent, and only introduced it towards the end of the 12 months that are relevant for our survey, (Lidl) also suggest that loyalty pricing alone may not be the only important driver of change in shopper behaviour in this

⁹³ Those respondents who – in the preceding question which allowed multiple reasons to be selected – identified more than one motivation for increased usage over the past 12 months were then asked to identify the single, main reason for their increased usage. The analysis described here combines these responses with those of the respondents who identified only one reason initially.

context. For instance, 21% of Tesco Clubcard, 19% of Morrisons More, and 18% of Sainsbury's Nectar Card members who had been a member for more than 12 months reported increased usage of their loyalty schemes in the past 12 months. This is broadly comparable to the 27% of Asda shoppers and 21% of Lidl shoppers, despite Asda not offering loyalty pricing promotions and, in the case of Lidl, having only recently introduced them for a limited range of products.

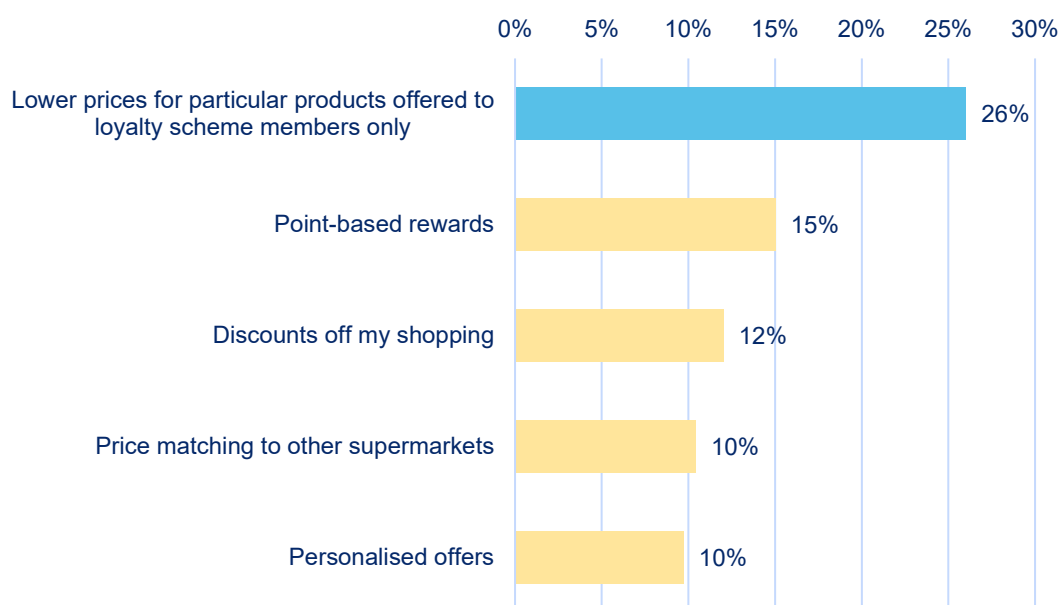
- 3.30 There are also some shoppers reducing their use of supermarket loyalty schemes compared with 12 months ago at all supermarkets, including those that offer loyalty pricing (31% for myWaitrose, 29% for Co-op Membership, 27% for Morrisons More, 19% for Sainsbury's Nectar Card and 16% for Tesco Clubcard). Similarly, the percentage of shoppers using loyalty schemes less at Asda and Lidl stands at 22% and 21%, respectively.

How has loyalty pricing impacted where people shop?

- 3.31 Our survey found that people fragment their grocery shop, on average shopping at three supermarkets regularly.
- 3.32 When analysing the main, or only, type of promotion that would increase the likelihood of respondents shopping at a particular supermarket,⁹⁴ loyalty pricing is the most commonly cited main reason (identified by 26%). This is followed by points-based rewards (15%), discounts off shopping (for example, a percentage discount) (12%), price matching to other supermarkets and personalised offers (both 10%).

⁹⁴ Those respondents who – in the preceding question which allowed multiple response options to be selected – identified more than one type of promotion that makes them more likely to shop at a particular supermarket were then asked to identify the single, main type of promotion that motivates them to do this. The analysis described here combines these responses with those of the respondents who identified only one type of promotion, or none of the listed promotions, initially.

Figure 3.10 – Main, or only, type of promotion that makes respondents more likely to shop at a particular supermarket (top 5 shown only)



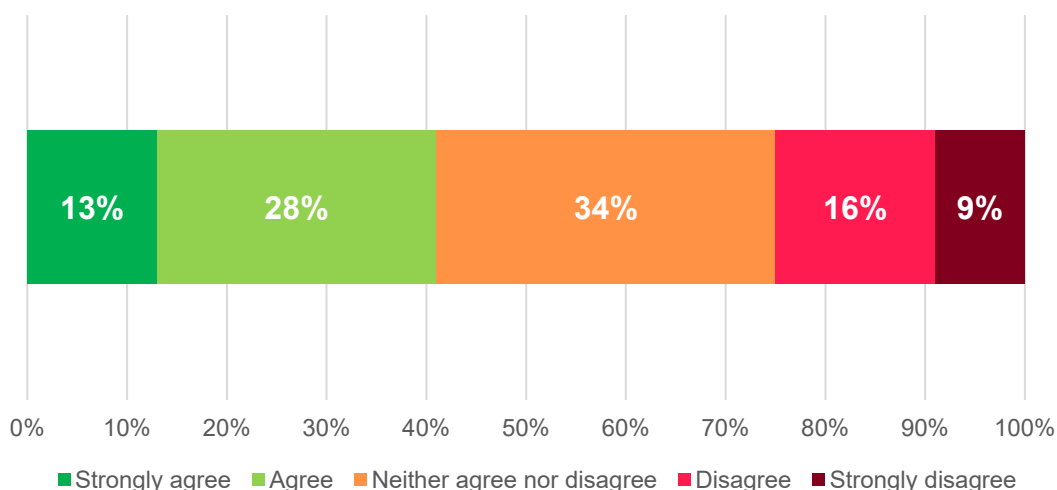
Source: CMA analysis of consumer survey.

Base: UK adults (18+) who are responsible for grocery shopping in their household. Unweighted: 2,438.

Questions: Which, if any, of the following types of promotions or rewards makes you more likely to shop at a particular supermarket? Please select up to three. And what would you say is the main type of promotion or reward that would make you more likely to shop at a particular supermarket?

3.33 Loyalty pricing may also strengthen customer retention by making shoppers feel valued. According to the findings of our consumer survey, 41% of respondents strongly agree or agree that loyalty pricing makes them feel like a valued customer, while 25% disagree or strongly disagree. The impact is highest among younger shoppers, with 49% of those aged 18–29 agreeing compared with those aged 50-59 and 60-69 (both 35%) and among low-income individuals (47%).

Figure 3.11 – The extent to which shoppers agree or disagree that loyalty prices make them feel like valued customers



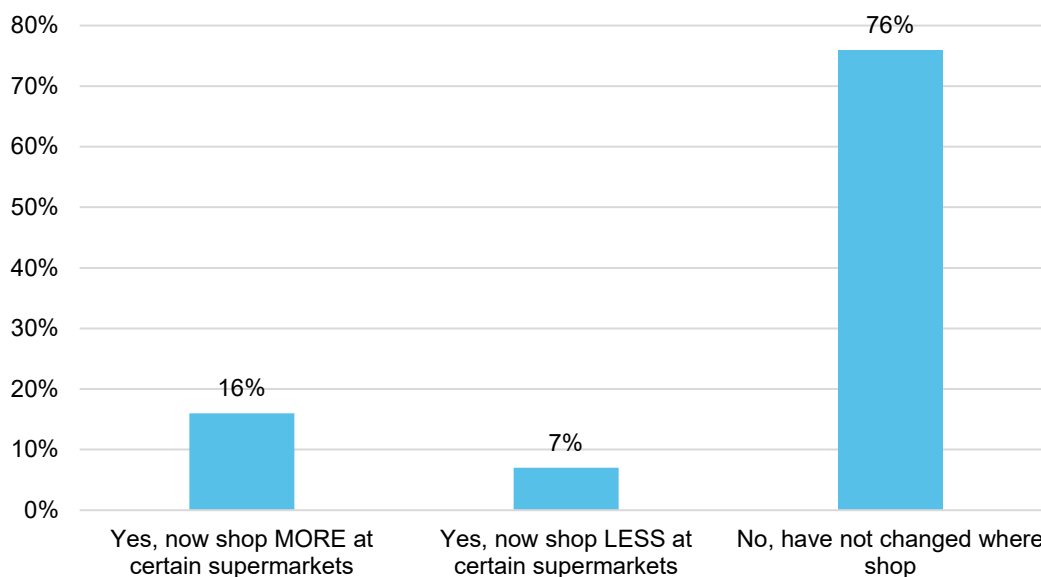
Source: Consumer survey.

Base: UK adults (18+) who are responsible for grocery shopping in their household. Unweighted: 2,437

Question: Some supermarkets operate loyalty schemes that offer grocery products at lower prices for members and a higher price for non-members. These lower prices for members of loyalty schemes are called 'loyalty prices'. To what extent do you agree or disagree with the following statement: Loyalty prices make me (or would make me) feel like a valued customer?

3.34 However, despite the appeal of loyalty pricing, most shoppers (76%) report that loyalty pricing has not changed where they shop.

Figure 3.12 – Whether respondents have changed where they shop as a result of loyalty pricing in the past 12 months



Source: Consumer survey.

Base: UK adults (18+) who are responsible for grocery shopping in their household. Unweighted: 2,436

Question: In the past 12 months, have you changed where you shop as a result of some supermarkets having loyalty prices? Please consider both online and in-store grocery shopping.

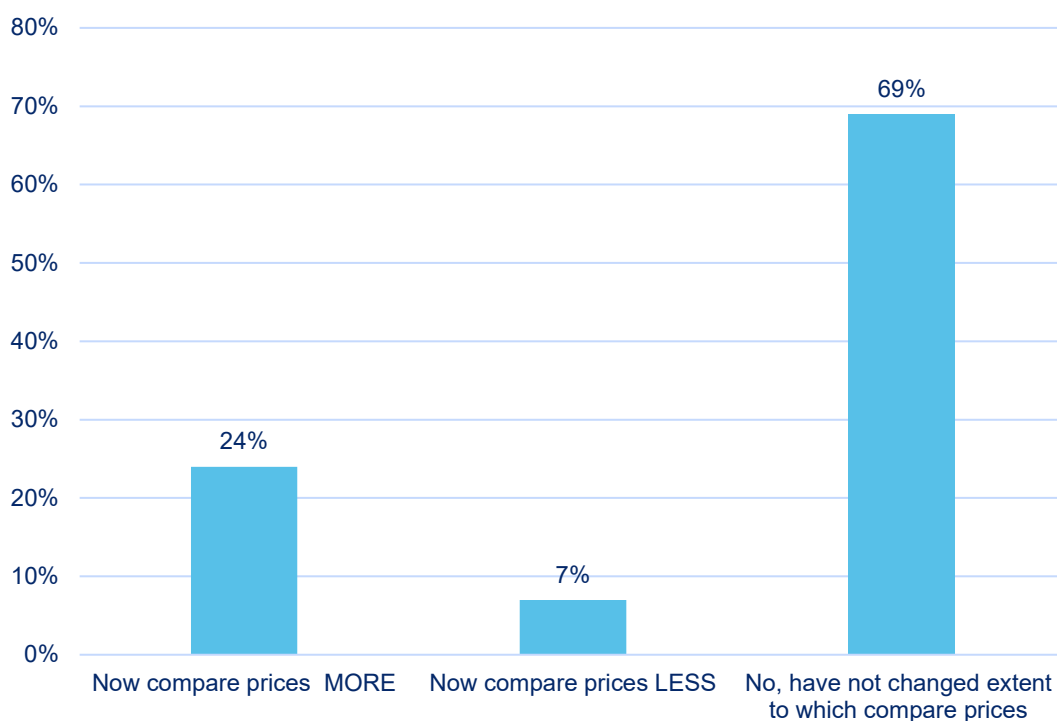
3.35 This is especially pronounced among older shoppers, with 89% of those over 70 reporting no change in where they shop in the past 12 months, compared with 65% of 18-29-year-olds. Financial wellbeing also plays a role: 84% of those that consider themselves living comfortably did not alter their shopping patterns, compared with 56% of those who consider themselves finding things very difficult. This suggests that loyalty pricing is less impactful for those who feel financially secure, while those under financial strain may be more likely to respond to these pricing incentives.

Has loyalty pricing impacted price comparison behaviour?

3.36 Our survey explored whether people have changed how much they compare prices because of loyalty pricing.

3.37 Interestingly, while 69% of respondents indicated that loyalty pricing has not affected the extent to which they compare prices across different supermarkets compared to 12 months ago, nearly a quarter (24%) reported that they now compare prices more due to the introduction of loyalty pricing.

Figure 3.13 – Whether the extent to which shoppers compare prices across supermarkets has changed compared to 12 months ago as a result of loyalty pricing



Source: Consumer survey.

Base: UK adults (18+) who are responsible for grocery shopping in their household. Unweighted: 2,433

Question: And thinking about now compared to 12 months ago, which of the following most applies to you?

- 3.38 Those who consider themselves to be finding things very difficult financially were the most likely to compare prices more than 12 months ago because of loyalty pricing (42%), compared with just 15% of those who consider themselves to be living comfortably and 21% of those doing alright.
- 3.39 This increase of price comparisons among financially struggling respondents may reflect doubts about whether loyalty pricing offers genuine savings on the usual price. It may also be a response to wider financial difficulties in the face of cost-of-living pressures, indicating a stronger desire to ensure they are getting the best possible deals.

Conclusion

3.40 In summary, our survey found:

- a significant number of shoppers (43%) consider it unfair that loyalty scheme members pay lower prices for some products than non-members.
- a majority of shoppers believe that loyalty prices offer good savings, with frequent users of loyalty schemes more likely to hold this view.
- while 60% of shoppers trust that the loyalty prices provide savings on the usual price for members, 55% think the price for non-members is inflated during the loyalty promotion.
- although loyalty pricing is a factor in driving new membership for some shoppers - with many agreeing that lower loyalty prices make them feel like they have to join a loyalty schemes to save money - it is not the only motivator.
- shoppers appear to be influenced by a range of factors, including other rewards and promotions and starting to shop at (or increasing the frequency with which they shop at) a particular supermarket.
- the growth of membership schemes over the past 12 months, such as Lidl Plus (which did not offer loyalty pricing until May 2024) and Asda Rewards, indicates that growth can occur in the absence of loyalty price promotions.
- shoppers see loyalty pricing as the most appealing type of promotion, with nearly a third citing it as the main type of promotion that would increase their likelihood of shopping at a particular supermarket.
- however, most shoppers have not changed where they shop due to loyalty pricing, especially older and financially comfortable shoppers, and most shoppers continue to shop at multiple supermarkets.

- most shoppers have not changed their price comparison habits due to loyalty pricing, but nearly a quarter are comparing prices more often, especially those in financial difficulty. This trend may reflect scepticism about the value of loyalty pricing and a stronger desire to ensure they are getting the best possible deals.

3.41 Overall based on our survey findings, there is no evidence to suggest that loyalty pricing has changed shopper behaviour in a way that weakens competition in the groceries sector. However, as described in chapter 2, loyalty pricing strategies are still evolving, and supermarkets continue to innovate their offerings. These developments could potentially reshape shopping behaviours over time.

4. Are all shoppers able to access loyalty prices?

Introduction

- 4.1 Some concerns have been expressed by stakeholders about the fairness of loyalty pricing, noting that it is not accessible to everyone due to restrictions on who can join and use supermarkets' loyalty schemes. For example, Which? in its 2023 and 2024 investigations of loyalty pricing highlighted that some vulnerable groups could be excluded from lower prices available to members due to age and address based restrictions or because of digital exclusion.^{95 96}
- 4.2 Our analysis of public sentiment using social media monitoring software, and of enquiries and complaints data submitted to the CMA and other organisations,⁹⁷ also highlighted concerns about some supermarkets' perceived digital only approach for their loyalty schemes excluding those without a smartphone or access to the internet.

Eligibility requirements

- 4.3 Each loyalty scheme has a set of eligibility requirements that shoppers are required to meet to become a member. Eligibility requirements across schemes include minimum age requirements, the need to have a UK residency or address, or needing a smartphone for digital registration to access some or all of a scheme's benefits (see table 4.1). We set out which schemes have which requirements below and consider whether any of these raise concerns from a consumer law perspective.

Age

- 4.4 Restricting loyalty scheme membership to people aged 18 and over has been highlighted by some stakeholders as problem following the introduction of loyalty pricing. This is because under-18s as a group are therefore effectively often prevented from accessing the cheapest prices for some supermarkets despite generally having less purchasing power than other age groups. Under-18s may make other types of purchases at supermarkets, such as

⁹⁵ [Which? uncovers dodgy-looking supermarket loyalty discounts - Which? News](#)

Other examples include: [Watchdog to investigate price cuts for UK supermarket loyalty cardholders | Supermarkets | The Guardian](#); [Loyalty cards compared: Clubcard vs Nectar and more - Which?](#)

⁹⁶ [Revealed: the millions of people excluded from big store loyalty schemes - Which? News](#)

⁹⁷ This includes enquiries and complaints made to Citizens Advice and Advice Direct Scotland.

ready-to-eat lunch meals, while a minority of under-18s will also be responsible for buying their own groceries.

- 4.5 We recognise that there may be factors that make it more complicated to give under-18's access to loyalty schemes. For example, we understand that some supermarkets may wish to avoid the risk of marketing age-restricted products, such as knives and alcohol, to minors. Several supermarkets also operate other businesses, such as financial services and consumer credit, which are tied into their loyalty schemes.⁹⁸ We also understand that businesses are legally prohibited from promoting such services to minors.
- 4.6 However, during our review, we have found that most schemes with loyalty prices do have provisions to allow under-18s to access at least some of their scheme's benefits. Co-op and Morrisons, for example, have lower age requirements of 16 years⁹⁹, while both Sainsbury's and Co-op allow parents and guardians to link children to their membership.
- 4.7 We have however identified that Tesco, Lidl, and Waitrose currently have policies which appear not to allow under-18s to use their schemes. (See table 4.1).

Fixed Address

- 4.8 Almost all supermarkets require shoppers to confirm UK residency upon registration.¹⁰⁰ Many also require shoppers to provide a UK address. Tesco, Sainsbury's, Morrisons¹⁰¹, Waitrose¹⁰², and Co-op,¹⁰³ for example all do so, although in the Co-op's case shoppers can purchase a temporary membership card in store which does not require registration.¹⁰⁴
- 4.9 The requirement for a UK address may facilitate the management and operation of the schemes. For example, the distribution of physical loyalty

⁹⁸ For example, Tesco Bank offers preferential rates to Clubcard members. | [Personal Loans – Low Interest Loans \(tescobank.com\)](#)

⁹⁹ As a registered society, Co-op is governed by the Co-operative and Community Benefit Societies Act 2014. This allows Co-op to legally extend membership to under 18s Under its terms and conditions, those aged 16 and over have full membership rights, while those under 16 can become a 'junior member'. Both full and junior members can access loyalty prices.

¹⁰⁰ Both Lidl and Co-op are exceptions to this tendency. Lidl Plus limits legal jurisdiction by stating its terms only apply to the use of the scheme in the UK (excluding NI). Co-op Membership is not limited to UK residents.

¹⁰¹ While members do not have to provide a full address, Morrisons requires a postcode for online registration.

¹⁰² Excluding Northern Ireland, where Waitrose does not operate.

¹⁰³ Under the Co-operative and Community Benefit Societies Act 2014, Co-op is required to record members' postal address.

¹⁰⁴ [Membership terms and conditions - Co-op \(coop.co.uk\)](#) – Temporary membership cards must be registered within 12 weeks of first use.

cards and vouchers, as well as for analytics, such as measuring household membership, and may also help reduce account fraud. However, the requirement also has the potential to exclude from schemes vulnerable groups without a fixed address, such as homeless people or those being cared for. Whilst the supermarkets have confirmed to us that customers are able to provide alternative addresses (such as a night shelter, hostel or charitable organisation) for registration, it is not clear from supermarkets' terms and policies that this is the case.

Digital Exclusion

- 4.10 Digital registration and use of an associated smartphone app has become a prerequisite to accessing some loyalty schemes' benefits, as some supermarkets launch or relaunch 'digital first' platforms. Moreover, some supermarkets require an online account in order to join loyalty schemes, while others have established digital-only features into schemes, such as personalised offers.
- 4.11 Accessing schemes digitally is also common amongst shoppers. In a survey it undertook in 2024, the Grocer found that a majority of people (60% of respondents) predominantly used apps on their smartphones to access their membership of supermarket loyalty schemes, whilst a sizeable number (40%) said they predominantly had physical cards (or key fobs).¹⁰⁵
- 4.12 The move towards digital first or digital only loyalty schemes, however, comes with the increased risk of digital exclusion of some groups. As of 2022, 6% of households still do not have access to the internet at home, with 100,000 households reporting affordability as the main reason for not having internet access.¹⁰⁶ Similarly, while smartphone ownership among adults has grown to a high of 94%, those aged 75 and over are significantly less likely to have such a phone in their household, standing at just 72%, while only 87% of those with limiting conditions own a smartphone.¹⁰⁷
- 4.13 Having an offline means of both joining and taking advantage of a loyalty scheme can alleviate barriers faced by those who are digitally excluded. For example, Tesco and Morrisons allow customers to join its scheme in store or

¹⁰⁵ [How shoppers view supermarket loyalty card pricing | The Grocer](#)

¹⁰⁶ Groups most likely to not have internet access at home and therefore, more likely to be at risk of digital exclusion, were those aged 75 and over, those in DE households and those who were not working. The likelihood of exclusion is also greater for individuals who fall in multiple of these groups. ([Ofcom Digital Exclusion Review, 2022](#))

¹⁰⁷ Those with limiting conditions are also more likely to not have a smartphone in their household. ([Ofcom Technology Tracker, 2023](#))

through its call centres, whereby customers are posted a physical card. Similarly, Sainsbury's customers can call the Nectar helpline to register and then be sent a physical card by post. Co-op customers can purchase a temporary card in store, which can be registered by calling Co-op's helpline.

Table 4.1 - supermarkets' loyalty scheme eligibility requirements (October 2024)¹⁰⁸

Loyalty Scheme	Minimum Age (years)	In store registration available	UK address required	Other Requirements
Tesco Clubcard	18	✓	✓	Customers who join Clubcard digitally must request a physical card if desired. Participation in personalised 'Clubcard Challenges' or to receive some personalised coupons requires digital registration and use of the Tesco app. ¹⁰⁹
Sainsbury's Nectar	18 (Parents or guardians can add under-18s to their membership as an 'additional collector')	✓	✓	Customers who join Nectar digitally must request a physical card if desired. Digital registration required for access to 'SmartShop' ¹¹⁰ and 'Your Nectar Prices'. ¹¹¹ Participation in personalised

¹⁰⁸ This table only outlines the eligibility requirements for loyalty schemes that offer loyalty pricing.

¹⁰⁹ Tesco, like many other supermarkets, has transitioned to a 'digital-first' loyalty scheme. Tesco is currently offering personalised offers and is trialling new mission-based challenges, which are only available in the Tesco app. See: [Tesco brings its AI game to new 'Clubcard Challenges'](#).

¹¹⁰ See: [SmartShop](#).

¹¹¹ See: [Your Nectar Prices](#).

				challenges requires digital registration and use of the Nectar app. ¹¹²
Morrisons More	16	✓	✓	
MyWaitrose	18	✗	✓	Digital registration required. Members can request a physical card following digital registration. Legacy members can continue to use their physical cards without linking it to an online account. These members will not be able to access personalised offers and online competitions.
Co-op Membership	16 (Under 16s can get a 'Junior Membership' if a parent or guardian buys and registers a temporary card obtained in store).	✓	✓ (Does not have to be a UK address)	£1 membership fee at registration Personalised offers require digital registration. ¹¹³
Lidl Plus	18	✗	✗	Lidl Plus is only accessible via a smartphone app.

¹¹² Sainsbury's also offers promotional challenges that incentivise members with bonus Nectar points as a reward for the purchase of selected products or meeting spending thresholds. These are only available in the Nectar app. See examples: [Fruitful Rewards: Boost Nectar points when shopping fruit and vegetables at Sainsbury's](#); [Start the Count up to Christmas: Sainsbury's launches festive challenge for Nectar customers](#).

¹¹³ See: [Your offers - Co-op](#).

				Both a mobile number and an email address are required for registration.
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CMA views on eligibility requirements

4.14 Based on what we have seen, our view is that the eligibility requirements imposed by supermarkets are unlikely to¹¹⁴ breach consumer law, specifically the Consumer Protection from Unfair Trading Regulations 2008 (CPRs):

- They do not appear to involve misleading actions (contrary to Regulation 5 of the CPRs) given that consumers do not seem to be given false or deceptive information about the requirements.
- Similarly, they do not seem to mislead consumers by omission (in breach of Regulation 6 of the CPRs) in that they do not appear to omit material information.¹¹⁵
- In addition, eligibility requirements of the type seen across supermarkets are unlikely to amount to a breach of the need for professional diligence¹¹⁶ contrary to Regulation 3 of the CPRs. In our view, it is difficult to characterise the imposition of requirements which are not obviously unreasonable or irrational as supermarkets deviating from honest market practice or general principles of good faith.
- Imposing eligibility requirements of the kinds we have seen would also be difficult, in our view, to be regarded as aggressive practices in breach of Regulation 7 of the CPRs. They appear unlikely to involve harassment, coercion or undue influence that would likely significantly impair the average consumer's freedom of choice or conduct.

4.15 While our view is that the supermarkets' eligibility requirements we have reviewed are unlikely to breach consumer law, we invite supermarkets to

¹¹⁴ By which we mean that they do not appear to be, for example, inherently misleading, or otherwise unfair, under the CPRs. We have not, of course, investigated individual cases.

¹¹⁵ That is, the information the average consumer needs to make an informed transactional decision.

¹¹⁶ Professional diligence is an objective standard commensurate with either (a) honest market practice in the trader's field of activity, or (b) the general principle of good faith in the trader's field of activity.

consider whether they could do more to prevent certain groups from being disadvantaged, for example, by:

- Introducing provisions that allow under-18s to access schemes (or certain aspects of those schemes where legal considerations do not preclude that), where they do not do so already. For example, through a parent or guardian or by introducing a form of junior membership.
- Enable customers to both join and access their membership schemes offline, such as being able to seek assistance in registration e.g. in store or through a telephone contact centre, as well as the option to request a physical card.
- Eliminate the need for an email address when using an offline registration method where this is currently a requirement.
- Making clearer to customers, for example in their terms and conditions and other materials relevant to their loyalty schemes, that they don't need to provide a fixed address to join their loyalty schemes. For example, where they enable the provision of an alternative address (such as a night shelter, hostel or charitable organisation). Moreover, supermarkets with digital-first schemes that do not automatically issue physical cards should consider whether a fixed address is essential information to the operation of their loyalty scheme and consider removing this requirement during online registration.

4.16 We also encourage supermarkets that already have these provisions to make them more prominent to their members and prospective members.

5. An assessment of shoppers' attitudes to supermarkets' use of their personal data, and whether these practices comply with consumer law

Introduction

- 5.1 In exchange for offering shoppers benefits through loyalty schemes, supermarkets collect data on their shopping habits. While data collection through loyalty schemes is now common across many sectors, the vast quantities of data amassed by supermarkets and the benefits it can generate for them has drawn increasing scrutiny.^{117,118} Additionally, some consumers and stakeholders are concerned that the increasing prevalence of loyalty pricing in the grocery sector means shoppers have no choice but to share their personal data, or that shoppers with data privacy concerns are unfairly excluded from accessing cheaper prices.¹¹⁹
- 5.2 The chapter explores shoppers' attitudes to supermarkets collecting their personal data. For example, are many shoppers avoiding joining or using schemes because of concerns about their personal data, and so are not accessing loyalty prices promotions at some supermarkets?
- 5.3 This chapter also examines whether the data collection and usage practices of supermarkets may give rise to consumer law issues. Specifically, it focuses on whether supermarkets are transparent in relation to how they use their customers' data.
- 5.4 It also considers whether loyalty pricing has resulted in a change in shoppers' use of loyalty schemes, and in turn the amount and value of customer data some supermarkets can collect.

Our research and scope

- 5.5 From a consumer law perspective, supermarkets must be transparent and fair in their dealings with shoppers. This includes giving shoppers information

¹¹⁷ Supermarkets did collect customer data before the introduction of loyalty schemes, although these early methods were less comprehensive.

¹¹⁸ For example: [The supermarkets' next big product is your data \(ft.com\)](#), [How supermarkets are growing their retail media businesses \(grocerygazette.co.uk\)](#), [What do supermarkets REALLY do with your loyalty card data? | This is Money](#), [Why retailers are using loyalty cards as a promotional paywall \(marketingweek.com\)](#).

¹¹⁹ Correspondence received by the CMA - including correspondence from MPs on behalf of their constituents.

about how their data is collected, used, and shared with third parties so that they can make informed choices.

- 5.6 Supermarkets that provide unclear or misleading information to shoppers about how they collect and use data could be in breach of the CPRs.¹²⁰ Compliance with the CPRs is important because, when shoppers are fully informed about how their data is going to be handled, they can make informed choices about their participation in the loyalty scheme, including whether the benefits of joining, or remaining part of, a loyalty scheme aligns with their preferences and privacy concerns.
- 5.7 To assess this, we requested information from the supermarkets¹²¹ and reviewed the privacy policies on their websites. Our consumer survey included questions aimed at understanding shoppers' awareness of, and attitudes towards, how supermarkets collect and use their personal data collection as part of their loyalty schemes. This information will help evaluate the potential impact of these data practices on shopper behaviour.
- 5.8 It is important to recognise that shoppers use loyalty schemes to access a range of benefits, so the data supermarkets collect through loyalty schemes use is not just a result of loyalty pricing.¹²² As a result, it has been necessary to consider the transparency of data collection and usage from loyalty schemes in a broad context, rather than focusing solely on the impact of loyalty pricing.
- 5.9 It should also be noted that our review has focused on loyalty pricing and the supermarkets' compliance with consumer law and the potential impacts of data collection on shopper behaviour. Our assessment has not included an assessment of the contractual arrangements between supermarkets and third parties governing the supply and usage of data. Nor have we evaluated how loyalty pricing contributes to data-driven profits compared to data the supermarkets collect from other activities, or whether advancements in data

¹²⁰ Supermarkets must also comply with data protection legislation, such as the General Data Protection Regulations (GDPR). The CMA does not enforce GDPR compliance (or other data protection legislation), and we have not evaluated the supermarkets' compliance with data privacy regulation. This responsibility lies with the Information Commissioner's Office (ICO). The ICO is the UK's independent data protection authority, tasked with upholding individuals' information rights. They achieve this by providing guidance to organisations, investigating complaints, and enforcing GDPR regulations.

¹²¹ We issued information notices to Tesco, Sainsbury's, Morrisons, Co-op, and Waitrose under the CMA's investigatory powers in Part 3 of Schedule 5 to the CRA.

¹²² When shoppers engage with supermarkets on social media—by liking posts, sharing content, or commenting—supermarkets can gather insights into their preferences, interests, and engagement patterns. This information, combined with data from loyalty schemes and online purchases, allows supermarkets to build a more comprehensive profile of their customers, helping them tailor promotions, offers, and communications more effectively.

utilisation techniques are providing any of the supermarkets with a competitive advantage. Additionally, we have not explored the potential use of algorithms for setting targeted prices,¹²³ which is currently the subject of a wide-ranging study by the Federal Trade Commission (FTC) in the U.S.¹²⁴

How supermarkets use shopper data

- 5.10 Supermarkets with loyalty schemes amass a substantial quantity of personal customer data. This includes basic details such as names and addresses, as well as more detailed insights into purchasing behaviour, spending patterns, and product preferences. For loyalty scheme members who shop online, separate to loyalty pricing, supermarkets can also track shoppers' digital footprints, including online browsing behaviour, search histories, time spent on specific pages, and click-through rates. Furthermore, they may monitor purchase frequency, basket size, and response to promotional offers.
- 5.11 Supermarkets with loyalty schemes primarily collect data for the following purposes:^{125, 126}
- **Personalising offers** – to tailor discounts and product choices for shoppers based on their shopping habits.
 - **Targeted advertising** – to send shoppers adverts and promotions based on their shopping habits.
 - **Managing loyalty schemes** – to track shoppers loyalty points and provide rewards to customers.
 - **Fraud prevention** – to monitor for unusual activity and protect customer accounts.
 - **Understanding customer trends** – to analyse buying patterns to inform the products and services they offer.

¹²³ Targeted prices are pricing strategies tailored to individual consumers based on their characteristics and shopping behaviour, often determined using sophisticated data analytics.

¹²⁴ The FTC in the U.S. is currently conducting a broader study into targeted pricing, including its impact on privacy, competition, and consumer protection. The FTC's study, initiated under its 6(b) authority, allows for wide-ranging investigations that are not tied to specific law enforcement actions. This type of inquiry falls beyond the remit of our consumer law assessment. See here for further details: [FTC Issues Orders to Eight Companies Seeking Information on Surveillance Pricing | Federal Trade Commission](#)

¹²⁵ This information is based on the supermarket' that offer loyalty schemes privacy policies.

¹²⁶ Some supermarkets with loyalty schemes share data with third parties to support the delivery of these activities.

- **Legal compliance** – to follow regulations, such as taxation, verifying age for restricted items, and protecting personal data.
- 5.12 To utilise this data, some supermarkets with loyalty schemes own or partner with dedicated data analytics companies like Dunnhumby,¹²⁷ Nectar360,¹²⁸ Circana,¹²⁹ and LiveRamp.¹³⁰
- 5.13 These partnerships enable the creation of highly detailed shopper profiles based on purchase history, shopping frequency, and spending habits. This rich data allows supermarkets to craft targeted promotions and marketing campaigns that are intended to resonate with individual shoppers. For example, Tesco analyses customer data through Dunnhumby, a subsidiary it acquired in 2001. Dunnhumby then sell data insights to brands – often fast-moving consumer goods (FMCG)¹³¹ brands.¹³² Nectar360, which launched in 2019 after Sainsbury's acquired Nectar, also provides FMCG brands with data insights. In 2023, Sainsbury's launched a new insight platform – SupplyHub – allowing brands to purchase forecast data.¹³³ Supermarkets are also trialling personalised advertising within their digital platforms using data.¹³⁴
- 5.14 These insights also extend beyond the supermarkets' grocery businesses, with some supermarkets using them across their entire corporate group, for example by offering financial products like personalised banking or credit card deals to loyalty members through their affiliated companies.
- 5.15 Some supermarkets with loyalty schemes share or sell customer data to suppliers¹³⁵ and partners, providing deeper insights into consumer behaviour for these businesses. For instance, anonymised data can be used to deliver

¹²⁷ [Dunnhumby set to be wholly owned by Tesco | News | The Grocer](#)

¹²⁸ [Our Brands: Nectar360 - understanding consumers | Sainsbury's.](#)

¹²⁹ [Co-op Study: Convenience Retail Media Amplifies Sales and Brand Awareness - Circana.](#)

¹³⁰ [Co-op Partners with LiveRamp to Enhance Retail Media Offering | LiveRamp](#)

¹³¹ FMCG goods are products that are sold quickly and at a relatively low cost. Examples include non-durable household goods such as packaged foods, drinks, toiletries, cosmetics, dry goods, and other consumables.

¹³² In 2021, Tesco launched a media and advertising platform aimed at enhancing the ability of brands and businesses to target their marketing efforts using Tesco's customer insights. This platform combines data from Clubcard with Dunnhumby: [Tesco launches the UK's largest closed loop grocery Media and Insight platform, powered by dunnhumby](#) Recently, John Lewis Partnership also partnered with Dunnhumby for personalised offers and data insights, including for Waitrose: [John Lewis Partnership Media Centre | John Lewis Partnership accelerates investment in customer loyalty](#)

¹³³ [Suppliers refusing to pay Sainsbury's new 'huge' data fees | News | The Grocer](#)

¹³⁴ For example, Nectar360 recently announced a partnership with e-commerce company Rokt to deliver personalised third-party product recommendations and non-endemic advertising to Sainsbury's customers when checking out online: [Sainsbury's improves personalisation for online shoppers | The Grocer](#)

¹³⁵ For example, this could include providing data to all the brands whose products that the supermarkets sell.

targeted advertising,¹³⁶ where a supermarket might identify that shoppers aged 18-24 are more likely to purchase a specific product. Although individual identities remain anonymous, the supermarket and relevant third parties can use this insight to target promotional efforts towards this demographic. These adverts typically link back to the relevant product pages on the supermarket's website.¹³⁷

- 5.16 While supermarkets may anonymise some data before sharing or selling it to third parties¹³⁸, they may also disclose personal information under certain circumstances. Common reasons for such disclosure align with those referenced in paragraph 6.11, and include facilitating the offering of personalised deals, preventing fraud, delivering targeted advertising, and complying with certain legal requirements.¹³⁹
- 5.17 This data-driven approach has proven lucrative for some supermarkets. Estimates place gross margins for retail media (made possible through data collection) at 80 per cent, compared with grocery retail at 20 per cent and 3-4 per cent at operating level.¹⁴⁰ Sainsbury's has reported it expects Nectar360 to make an additional £100 million in profit over the next three years.¹⁴¹ Dunhumby reported a 5% year-on-year increase in revenue to £267 million, resulting in an operating profit of £28.8 million in FY2023.¹⁴²

Shopper attitudes to data use

- 5.18 Understanding shoppers' attitudes toward supermarkets' collection and use of their personal data is important, as these attitudes can influence their willingness to engage with loyalty schemes. If shoppers are uncomfortable or uncertain about how their personal data is being used, they may be unwilling to join schemes or use their memberships, to access offers such as loyalty pricing they provide.

¹³⁶ While anonymisation strips away personal information, the remaining data can still be used to reveal patterns and trends in user behaviour at an aggregate level that advertisers can use to target broader audience segments without directly identifying individuals.

¹³⁷ [Nectar360's data-driven omnichannel success - Think with Google](#)

¹³⁸ For example: [Privacy Policy | Privacy & Legal | About Nectar | Nectar](#) (see section "How we will use your personal data, and our basis for doing so"); [Privacy Policy | Morrisons](#) (see section "Disclosure of personal data").

¹³⁹ For example: [Privacy Centre - Privacy policy | Tesco UK - Tesco Groceries](#) (see section "Why do you need to know this about me?").

¹⁴⁰ [The supermarkets' next big product is your data \(ft.com\)](#)

¹⁴¹ [J Sainsbury plc Annual Report and Financial Statements \(2024\)](#)

¹⁴² [Dunhumby Limited Annual Report and Financial Statements \(2023\)](#)

- 5.19 Social media monitoring has revealed a range of opinions: some shoppers feel pressured to trade their data for lower prices, while others show little concern and are satisfied with the exchange. Furthermore, some shoppers feel they are being unfairly excluded from these offers due to concerns about privacy and data security.¹⁴³
- 5.20 External research indicates that shoppers may understand and accept the trade-off between providing their data and receiving exclusive offers or lower prices. An RTS survey from April 2024¹⁴⁴, for instance, found that 73% of respondents recognised loyalty scheme pricing as a way for supermarkets to collect their data. Additionally, a Grocer survey from May 2024¹⁴⁵ reported that only 0.9% of respondents avoided using apps due to privacy concerns, suggesting that most consumers are willing to share data in exchange for perceived benefits.
- 5.21 Our analysis has explored how attitudes toward the supermarkets' data collection and usage practices has impacted shoppers' participation in loyalty schemes, and whether shoppers who do not participate due to data concerns feel left out or unfairly treated.

Shopper awareness of personal data collection and use by the supermarkets

- 5.22 Our consumer survey found that nearly three quarters of respondents, when asked to think back to when they had most recently signed up for a loyalty scheme, were aware that supermarkets collect personal data each time they shop (72%): with 49% knowing that supermarkets collect personal data through loyalty schemes without having looked at the details of the process, and another 23% stating that they had read the available information about how their data would be used (see figure 5.1).¹⁴⁶

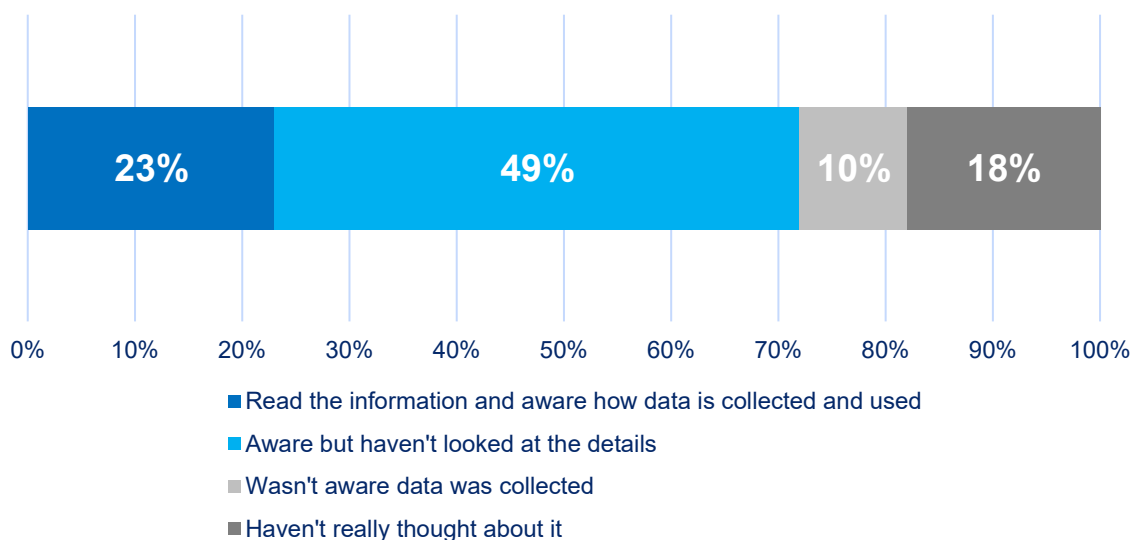
¹⁴³ Correspondence received by the CMA.

¹⁴⁴ [A quarter of shoppers now only shop with retailers offering loyalty member pricing - RTS research - Retail Connections](#)

¹⁴⁵ [How shoppers view supermarket loyalty card pricing | The Grocer](#)

¹⁴⁶ The consumer survey found no significant and material differences in this finding across age groups, whether they shop primarily online or in a physical store, or between those who had joined at least one loyalty scheme, and those who had not joined any loyalty scheme, within the last 12 months.

Figure 5.1 – The extent to which shoppers are aware – when signing up for a loyalty scheme – that the supermarket will be collecting their personal data each time they shop



Source: Consumer survey

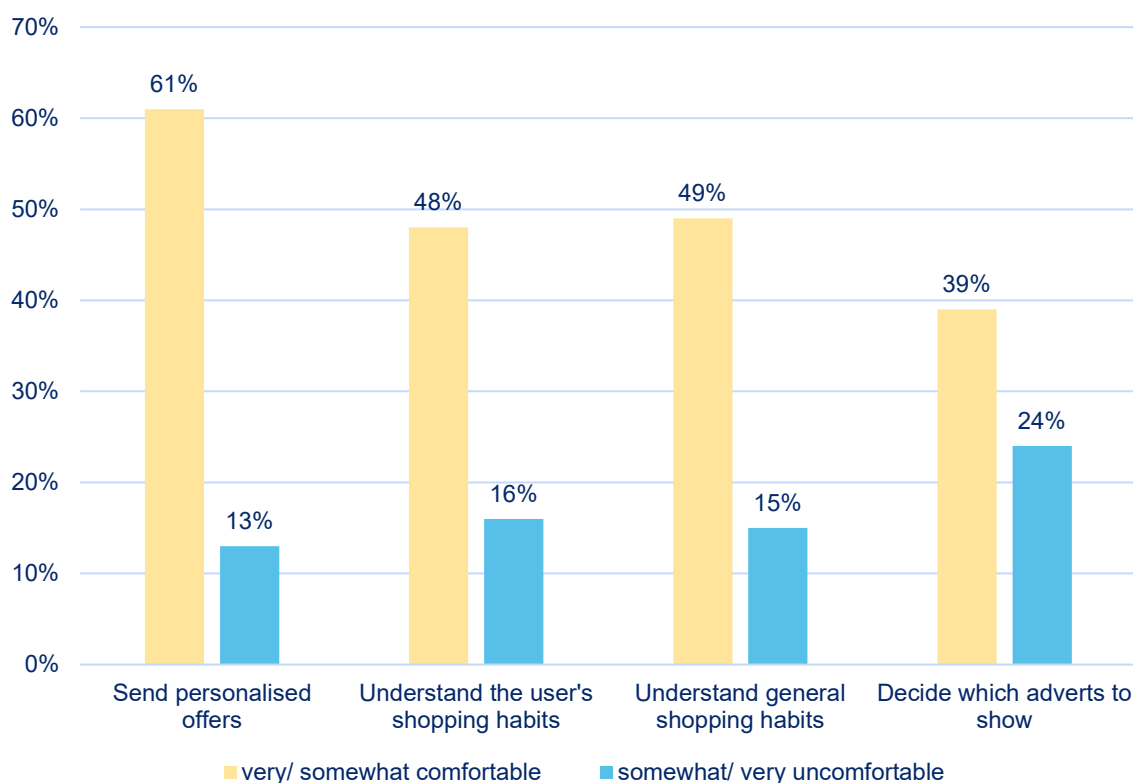
Base: UK adults (18+) who are responsible for grocery shopping in their household and regularly shop at any supermarket, who are a supermarket loyalty scheme member. Unweighted N: 2,346.

Question: Thinking back to when you most recently signed up for a supermarket loyalty scheme, were you aware that the supermarket would be collecting your personal data each time you shopped? This includes information about you, as well as your shopping habits.

Shoppers comfort with sharing data with the supermarkets and other companies

5.23 The survey not only assessed shoppers' awareness of how supermarkets use their personal data but also explored their levels of comfort with various applications of that data.

Figure 5.2 – How comfortable or uncomfortable shoppers feel about supermarkets’ use of their personal data



Source: Consumer survey

Base: UK adults (18+) who are responsible for grocery shopping in their household and regularly shop at any supermarket, who are a supermarket loyalty scheme member. Unweighted: personalised offers (2,337), understand your shopping habits (2,346), understanding general shopping habits (2,338), decide advertisements (2,344). Question: The supermarkets collect personal data every time you use your loyalty card or app. This information can include what you buy and how often you shop. How comfortable or uncomfortable do you feel about supermarkets using this information to...?

- 5.24 Our survey reveals that shoppers’ comfort with sharing their data varies based on how the data is used and who is accessing it. For example, many shoppers are comfortable¹⁴⁷ with supermarkets using their data when it leads to them receiving personalised offers (61%), or to provide supermarkets with insights into personal or general shopping habits (48-49%).
- 5.25 Younger shoppers (18-29) are the most comfortable sharing their data for personalised offers (76%), while older shoppers, particularly those aged 60-69, are less comfortable (51%).
- 5.26 When it comes to sharing data for insights into shopping habits, younger respondents are again the most comfortable, with 66% of those aged 18-29 willing to share data for insights into their personal shopping habits and 70%

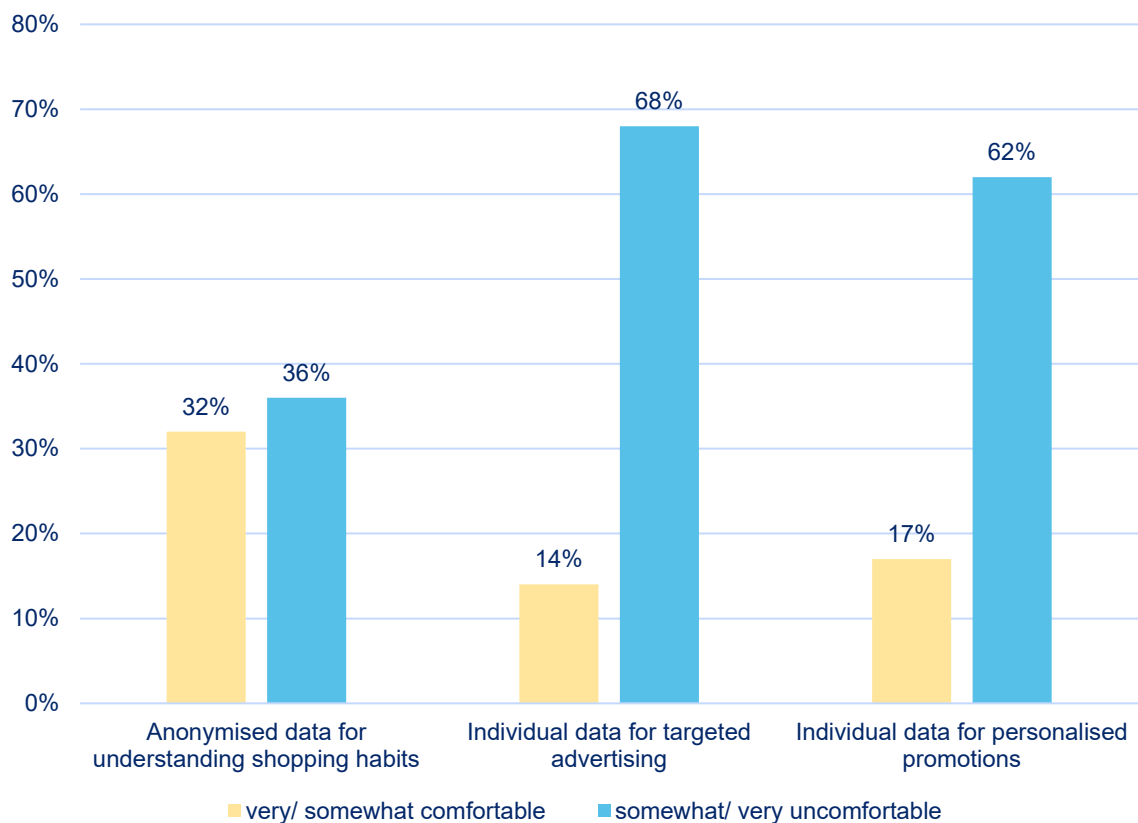
¹⁴⁷ Comfortable here includes the response options very comfortable and somewhat comfortable combined.

for insights into their general habits. Older age groups are less comfortable: with those aged 60-69 (38%) and aged over 70 (36%) being the least comfortable sharing their data for insights into their personal shopping habits.

- 5.27 Comfort levels drop further when it comes to supermarkets using personal data for targeted advertising. Only 39% of respondents overall are comfortable with this practice, with younger shoppers (aged 18-29) showing the highest comfort levels (50%) and those aged 60-69 being the least comfortable (27%).
- 5.28 Our survey also shows that shoppers are more uncomfortable when personal data is shared with other companies. For example, over three fifths of respondents were uncomfortable¹⁴⁸ with supermarkets sharing their data for targeted advertising (68%) or personalised promotions (62%).

¹⁴⁸ Uncomfortable here includes the response options somewhat uncomfortable and very uncomfortable combined

Figure 5.3 – How comfortable or uncomfortable shoppers are about supermarkets sharing their personal data with other companies



Source: Consumer survey

Base: UK adults (18+) who are responsible for grocery shopping in their household and regularly shop at any supermarket, who are a supermarket loyalty scheme member. Unweighted: understand shopping habits in general (2,347), targeted advertising (2,345), personalised promotions (2,345).

Question: And how comfortable or uncomfortable do you feel about supermarkets sharing your data with other companies for the following purposes?

5.29 Overall, these findings indicate that shoppers are more comfortable with data sharing when the data remains within their supermarket. However, they grow more cautious when their data is shared with third parties, especially for purposes like targeted advertising.

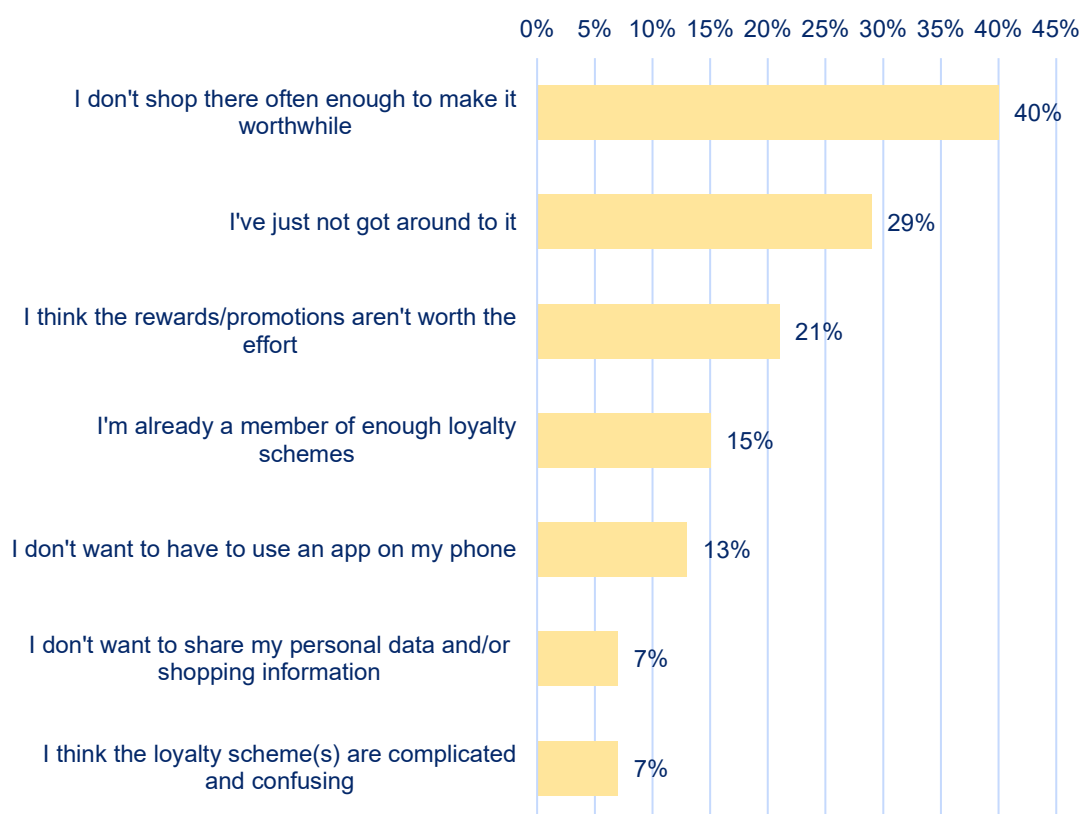
Impact of data concerns on shopper behaviour

5.30 We have also examined whether data privacy concerns deter shoppers from joining loyalty schemes or using their existing memberships. Additionally, we have considered whether these concerns affect certain groups of shoppers more than others and, if so, identified which groups are most impacted.

5.31 Our survey indicates that data privacy concerns are not preventing many shoppers from signing up to loyalty schemes: only 7% of respondents who are

not members of a loyalty scheme at a supermarket where they regularly shop, reported that they have not joined any supermarkets' loyalty schemes, due to data concerns.

Figure 5.4 – Proportion of shoppers citing data privacy concerns as a reason for not being a member of any of the loyalty schemes at supermarkets they shop at regularly (top 7 reasons shown only)



Source: Consumer survey

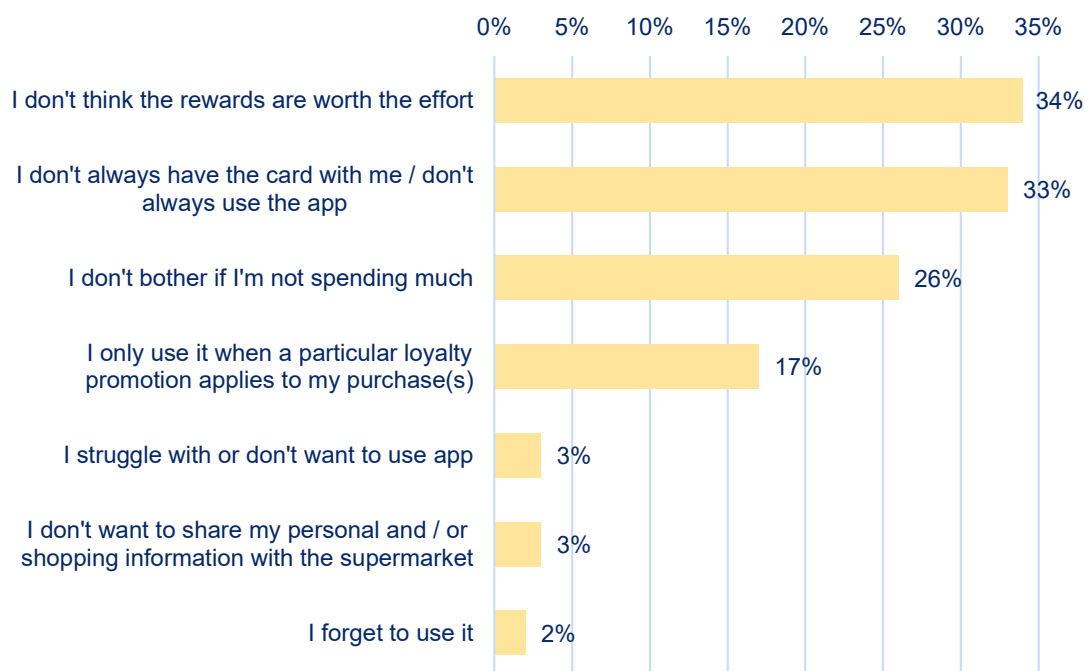
Base: UK adults (18+) who are responsible for grocery shopping in their household and regularly shop at any supermarket, who are not a loyalty scheme member at all of the supermarkets regularly shopped at with a loyalty scheme. Unweighted: 1,014.

Question: You said you're not a member of the loyalty schemes at the following supermarket(s) that you use regularly for grocery shopping. Why is this? Please select all that apply.

5.32 The most cited reasons for shoppers not joining any of the loyalty schemes provided by supermarkets they regularly use were unrelated to data privacy: 40% of respondents say they don't shop there often enough to make it worthwhile, 29% say they just hadn't got around to it/were planning to at some point, and 21% express scepticism about the value of the rewards or promotions being worth the effort. Notably, levels of privacy concerns as a reason do not vary significantly across different age groups or financial circumstances.

5.33 Moreover, data concerns do not appear to be a factor behind why some shoppers don't use loyalty schemes more often, with only 3% citing data concerns as a reason for not using them more regularly.

Figure 5.5 – Proportion of shoppers citing data privacy concerns as a reason for infrequently using one or more of their loyalty cards or apps when shopping for groceries



Source: Consumer survey

Base: UK adults (18+) responsible for grocery shopping in household and regularly shop at any supermarket, are a supermarket loyalty scheme member, but use one of their loyalty memberships less than half the time when doing big or top-up grocery shops. Unweighted: 310.

'Other (please specify)' is not shown on the chart; 11% of respondents selected it.

Question: You said that you use {one or more of} your loyalty card or app {s} less than half of the time, hardly ever or never when shopping for groceries. What are the reasons for this? Please select all that apply.

5.34 When considering shoppers' awareness that their personal data is collected every time they shop, along with their discomfort regarding certain data processing practices, some shoppers may be consciously accepting a trade-off between privacy concerns and the benefits of loyalty scheme membership. It appears that while many shoppers have reservations or some discomfort with how their data may be used, this is only deterring a small proportion of shoppers from using loyalty schemes and accessing loyalty prices.

Are the supermarkets compliant with consumer law when collecting and using personal data?

- 5.35 This section examines the extent to which supermarkets with loyalty pricing are transparent about their personal data collection and usage practices. Our analysis compared the information they provided in response to our information notices against the information they provide to consumers in their privacy policies and on their websites.
- 5.36 In our view, what supermarkets tell shoppers in terms of the collection and use of personal data may, depending on its content, be material information which a shopper needs to make informed decisions. A failure to provide this information (in part or in whole), or providing it in a way which is unclear, ambiguous or difficult to understand, could therefore amount to a misleading omission in breach of the CPRs.¹⁴⁹ Giving shoppers false or deceptive information, meanwhile, may be a misleading action under the same legislation.
- 5.37 On the basis of the information we have gathered, including that provided to us by the supermarkets, we have not found evidence of concerns about compliance with consumer law: the supermarkets we examined typically explained in all their privacy policies what they do in terms of the collection and use of that data and why.
- 5.38 We consider that the information provided by supermarkets is likely to give shoppers a reasonable understanding of what is being done with their data. For example, the supermarkets outline the types of personal data they collect, such as purchase history and preferences, and explain how this data is used to provide personalised offers and improve customer experiences.¹⁵⁰
- 5.39 As far as their personal data sharing practices are concerned, we have observed that supermarkets disclose their practices in general terms. They do not always, for example, explicitly disclose the identity of every third party that they may share data with.
- 5.40 For example, Sainsbury's 'Privacy Hub'¹⁵¹ outlines personal data is shared with advertising companies, social media platforms (such as Facebook and Instagram) and market research partners to analyse customer behaviour. Nectar's privacy policy also mentions sharing data within the Sainsbury's

¹⁴⁹ This could also likely infringe data protection law – such as the UK GDPR - which the CMA has not considered as it falls under the purview of the ICO.

¹⁵⁰ The supermarkets' privacy policies also outline the rights of individuals under data protection law, including:

- Right to access: Customers can request information about the data held about them.
- Right to rectification: Customers can request corrections to inaccurate data.
- Right to erasure: Customers can request the deletion of their data in certain circumstances.
- Right to object: Customers can object to the processing of their data for direct marketing purposes.

¹⁵¹ [Sainsbury's Privacy Hub \(sainsburys.co.uk\)](https://www.sainsburys.co.uk/privacy)

Group, with partners, brands, and service providers.¹⁵² Tesco's 'Privacy Centre'¹⁵³ similarly states that personal data may be shared with Tesco Group partners, retail partners¹⁵⁴, media partners¹⁵⁵ and service providers,¹⁵⁶ for targeted advertising and product delivery. Morrisons¹⁵⁷, Co-op¹⁵⁸ and Waitrose¹⁵⁹ adopt similar approaches when disclosing their data usage practices.

- 5.41 Accordingly, based on the information we have gathered, our overall view is that the supermarkets are unlikely to be breaching their consumer law obligations in respect of their collection and use of personal data. While they adopt a high-level approach to disclosing their data-sharing partnerships, they appear to give shoppers adequate information about their practices.

The use of anonymised and aggregated data by the supermarkets

- 5.42 Supermarkets anonymise and aggregate the personal data they collect, for example, to develop customer segments, by identifying shared characteristics and buying patterns.¹⁶⁰ These insights can then be used to target products or promotions at certain groups based on overall patterns of shopper behaviour. Supermarkets may also, as we note above, share and/or sell anonymised or aggregated data with or to third parties.
- 5.43 We have seen that the information which supermarkets share with customers in respect of their use of anonymised and aggregated data differs from that given for personal data. Supermarkets typically do not inform shoppers in any detail that they share and/or sell anonymised and aggregated data with/to third parties. Instead, for example, they often explain that they anonymise the data they collect by removing personal details to protect individuals. This

¹⁵² [Nectar Privacy Policy](#)

¹⁵³ [Privacy Centre - Privacy policy | Tesco UK - Tesco Groceries](#)

¹⁵⁴ Tesco work with several retail partners who sell products via Tesco or offer products, services or the ability to earn Clubcard points (Clubcard Reward Partners). It states it only shares personal data that enable its retail partners to provide services requested by their customers.

¹⁵⁵ Tesco also work with certain media partners in connection with online and other digital media services. For example, the media partners place relevant advertising for Tesco and their retail partners online and through other digital media services.

¹⁵⁶ Service providers are organisations that help Tesco to deliver and improve the services they offer to their customers.

¹⁵⁷ [Privacy Policy | Morrisons](#)

¹⁵⁸ [Privacy notice - Co-op \(coop.co.uk\)](#)

¹⁵⁹ [Privacy Notice | Waitrose & Partners](#)

¹⁶⁰ See descriptions in supermarkets' privacy policies.

allows them to use the data for additional purposes, such as analysing large groups of people, like loyalty scheme members.

- 5.44 Our view is that the supermarkets' practices in this regard are unlikely to raise concerns under consumer law. With anonymised and aggregated data, individual shoppers cannot be identified. Further, from the information provided to us by the supermarkets, such data appears to be used for what could be characterised as typical commercial activities that might be expected of supermarkets and which do not affect shoppers individually - e.g. identifying and analysing patterns of collective or overall shopper behaviour and demand.
- 5.45 Consequently, it is unlikely in our view that information about the selling or sharing of this data, and the likely subsequent use by third parties, would be material information. That is, information that an average shopper would need to know to make an informed decision about signing up to a loyalty scheme, continuing to participate in that scheme and/or in connection with their purchases of individual products.
- 5.46 We also note that the practice of collecting and using anonymised and aggregated data is not unique to the groceries sector but is common across various retail sectors. Furthermore, since the sharing or selling of this type of data does not fall within the scope of personal data, the UK GDPR does not apply.¹⁶¹

The requirement to agree to the collection and sharing of data as a condition of joining and participating in loyalty schemes

- 5.47 As noted above, concerns have been raised with us that shoppers are being unfairly excluded from loyalty schemes (and consequently missing out on being able to access loyalty promotions) because they are unwilling to share their personal and shopping data. Such sharing is a requirement of membership of all supermarket loyalty schemes.
- 5.48 While some shoppers may feel it is unfair that they are unable to access loyalty schemes and their associated promotions, we consider that there is unlikely to be anything misleading (by action or omission) in breach of the CPRs where supermarkets impose this data sharing requirement.¹⁶² The position is generally clearly and sufficiently accurately presented to

¹⁶¹ See ICO guidance here: [anonymisation-intro-and-first-chapter.pdf](#)

¹⁶² Whether the information given to consumers about what data is collected and what will be done with it is misleading is a separate issue.

consumers. In addition, requiring consumers to agree to their data being collected and used as a condition of membership is unlikely by itself to amount to a prohibited aggressive practice.^{163,164, 165}

Is data collected from loyalty pricing impacting competition?

- 5.49 While not the primary focus of our review, we have considered whether loyalty pricing has increased the amount and value of customer data available to supermarkets, potentially giving them a competitive advantage through deeper insights into shopper behaviour.¹⁶⁶
- 5.50 As noted in chapter 3, although shoppers cite loyalty pricing as the main type of promotion that would increase their likelihood of shopping at a particular supermarket, most shoppers have not changed where they shop due to loyalty pricing. Supermarkets without loyalty pricing (e.g. Asda), or that have only just introduced loyalty pricing on a limited number of products (e.g. Lidl) have also seen the highest membership growth over the past 12 months. Moreover, shoppers, on average, use three supermarkets regularly and are a member of three different supermarket loyalty schemes, spreading data collection across supermarkets.
- 5.51 In summary, while we haven't conducted an in-depth review, it currently appears that loyalty pricing has not yet shifted competition by substantially increasing data collection for the supermarkets that offer it.
- 5.52 Looking ahead, loyalty pricing could impact competition if the data collected grows substantially compared to supermarkets without such schemes. This could enhance supermarkets' pricing power and product strategies, potentially leading to increased market concentration and reduced shopper choice,

¹⁶³ Regulation 7 of the CPRs prohibits commercial practices which by harassment, coercion (including physical force) or undue influence, significantly impair, or are likely to significantly impair, the average consumer's freedom of choice or conduct concerning the product, and the average consumer takes, or is likely to take, a different decision as a result. None of these factors are present in the requirement for consumers to agree to the collection and use of data and we have not seen evidence of any other commercial practices related to data collection and use which could reasonably be characterised as aggressive by reference to Regulation 7.

¹⁶⁴ For the sake of completeness, the requirement does not fall within any of the banned practices contained in the CPRs which are unfair in all circumstances. We also do not consider that the requirement is likely to amount to an unenforceable unfair contractual term in accordance with the provisions on unfair terms contained in the Consumer Rights Act 2015.

¹⁶⁵ Supermarkets are under no legal obligation to give consumers access to loyalty schemes where consumers object to the processing of their personal data.

¹⁶⁶ Although the following do not represent the findings of a detailed review or investigation of the state of competition in the relevant market.

disadvantaging competitors and suppliers who lack access to comparable insights.

Conclusion

- 5.53 In conclusion, our consumer survey showed that shoppers are relatively comfortable with data sharing when it remains within their supermarket, especially when the benefits to them are clear (for example, personalised pricing). However, shoppers are more uncomfortable when their data is used for direct advertising, and when shared with third parties.
- 5.54 Despite these concerns, this unease has not significantly deterred participation in loyalty schemes, nor has it led to the exclusion of a significant proportion of shoppers because of data privacy concerns. This suggests that while shoppers may have some reservations, many are willing to exchange some degree of privacy for the perceived benefits that loyalty pricing offers.
- 5.55 Supermarkets appear to comply with consumer law by informing customers about their use of personal data. While they are less transparent about the sale of anonymised and aggregated data to third parties, we consider, based on what we have observed, that their practices align with common market behaviours and are unlikely to fall foul of consumer law.
- 5.56 At present, we have not seen evidence to suggest that the data collected through loyalty pricing is harming competition. The market remains competitive, and there are no barriers preventing other supermarkets from introducing loyalty pricing or similar loyalty schemes. However, the potential for future competitive concerns exists, particularly if, for example, the advantages conferred by increased consumer data leads to market concentration or reduced choice for shoppers.

6. CMA's view on what supermarkets need to do to ensure their loyalty price promotions comply with consumer law

Introduction

- 6.1 As set out in Chapter 3 (Figure 3.3), our consumer survey found that 40% of shoppers said they do not trust that the loyalty price is a genuine saving on the usual price. Furthermore, 55% of shoppers think the non-loyalty price is generally higher than the 'usual' price (Figure 3.4).
- 6.2 This chapter sets out our views on how supermarkets are more likely to meet their obligations under consumer law¹⁶⁷ when offering loyalty pricing promotions,¹⁶⁸ and ensure consumers can have confidence in the loyalty price offers presented to them. We have considered how the relevant legal principles apply to the generally fast-moving goods sold by supermarkets to which loyalty price offers¹⁶⁹ are applied.¹⁷⁰
- 6.3 This chapter focuses on loyalty dual price promotions, however the underlying principles also apply to loyalty bundle offers¹⁷¹ and loyalty multibuy offers.¹⁷²

Background

- 6.4 Loyalty prices are a relatively new type of promotion. As such, existing consumer law guidance, such as the [CTSI Guidance](#) for business on pricing practices, does not explicitly consider them.
- 6.5 The [CTSI Guidance](#) focuses on other promotions such as those which attempt to demonstrate good value by comparing the current selling price against a higher 'reference' price. Examples include:

¹⁶⁷ In particular, the CPRs.

¹⁶⁸ Although whether a grocery retailer is complying in any particular case will depend on the specific facts.

¹⁶⁹ Loyalty Dual Price Promotion means a Loyalty Promotion that applies to a single item, where there is a member price and a non-member price. For example, members pay 50p, non-members pay 75p.

¹⁷⁰ The principles may apply in different ways, or produce different outcomes, in different circumstances.

¹⁷¹ Loyalty Bundle offers are promotions where an offer is available when buying a number of different items together. This could be a combination of items from a range of different products. For example, 'buy any 2 frozen vegetables for £2'.

¹⁷² Loyalty multibuy offers are promotions where there is an offer available for buying a number of the same item, such as 'buy 3 of item X for the price of 2'.

- the selling price of the product before the product went on promotion – for example, ‘was £10/ Now £5’ or ‘save 50%’.
- the intended selling price following the promotion – for example ‘introductory offer – now £5 will be £10 from 1 December’.
- a Recommended Retail Price (RRP) suggested by the manufacturer, for example ‘RRP £10 / Our Price £5’.

The CTSI guidance sets out examples of issues that retailers should consider when determining whether a price reduction is genuine. These include:

- *How long was the product on sale at the higher price compared to the period for which the price comparison is made?*
- *How many, where and what type of outlets will the price comparison be used in compared to those at which the product was on sale at the higher price?*
- *How recently was the higher price offered compared to when the price comparison is being made?*
- *Where products are only in demand for short periods each year, is a price comparison being made with out-of-season reference prices?*
- *Were significant sales made at the higher price prior to the price comparison being made or was there any reasonable expectation that consumers would purchase the product at the higher price?*

Comparing loyalty price promotions and ‘other’ reference price promotions

6.6 In contrast to other reference price promotions, such as the ‘was / now’ promotion referred to in the first bullet at paragraph 6.5, in a loyalty price promotion the product¹⁷³ is offered, and can be sold, at the higher price (the ‘non-loyalty price’) as well as the lower one (the ‘loyalty-price’). This may be because shoppers are not a member of the loyalty scheme, or they are but forgot or were unable to swipe / scan their card.

¹⁷³ Or products when part of a bundle or multibuy offer.

6.7 Put another way, in a loyalty promotion, there are two active prices. One – the non-loyalty price – is the price at which the product is offered to any shopper unconditionally (i.e. what they can buy it for without the need to meet any conditions, such as being a loyalty scheme member and having their card with them). The other – the loyalty price – is what shoppers can pay if they are a loyalty scheme member and have their card with them or can access the deal via an app.

Image 6.1 – Recent examples of how supermarkets display loyalty prices in store¹⁷⁴



6.8 The proportion of customers paying the non-loyalty price will vary between supermarkets and will depend on a number of factors. These include how successful the supermarket has been in getting customers to join and use their loyalty scheme, and the willingness of non-members to purchase a product with a loyalty discount when they are unable to benefit from the promotion.

6.9 With ‘other’ promotions, such as ‘was / now’, the product will not be sold at the higher reference price during the promotion because the promotional price is offered to all customers. The ‘was’ price is what all shoppers previously had to pay for the product (with no conditions attached). The ‘now’ price is what they can all currently pay (with no conditions attached).

¹⁷⁴ These images were captured between 23 October 2024 and 11 November 2024

Image 6.2 - 'was/now' promotion - all shoppers pay the discounted price of £2.50

Image 6.3 - Loyalty dual price promotion - members pay £2.50, non-members pay £3 for the same product



6.10 However, there are also some key similarities between the different types of promotions which are relevant from a consumer law perspective. In particular:

- customers are typically presented with two prices, because there are two prices for the same item (in a loyalty promotion) or because they are told there was one price and there is now another (in a 'was / now' promotion); and
- one of those prices is likely to be used as a reference point to assess the relative attractiveness of the other.

6.11 On this basis, the CMA considers that a loyalty price promotion is a distinct form of reference pricing.

The CPRs¹⁷⁵

6.12 If supermarkets choose¹⁷⁶ to use loyalty prices, or another form of reference pricing, they must, like all traders, ensure that any price advantage claimed is not misleading under consumer law.¹⁷⁷ Any comparison between the non-

¹⁷⁵ This section reflects our interpretation of the CPRs. The DMCC Act will replace the CPRs (which will be repealed). The DMCC Act contains similar prohibitions against unfair and misleading commercial practices as are currently contained in the CPRs. We do not therefore expect that the DMCC Act coming into force will have any impact on the substance of this section.

¹⁷⁶ Supermarkets can set low prices without framing the selling price as a promotional price or a price reduction.

¹⁷⁷ Whilst this section sets out the CMA's views on how retailers are more likely to comply with consumer law when offering loyalty price promotions, retailers must also ensure their practices otherwise comply with the law to ensure their use of price promotions are not misleading in other ways. Accordingly, traders should take account

loyalty price / reference price and the discounted price must reflect a genuine price advantage or saving. If not, supermarkets are liable to mislead consumers and they should not use such prices in their advertising or presentation of prices.¹⁷⁸

- 6.13 The CPRs¹⁷⁹ set out broad rules outlining when commercial practices are misleading and thus unfair.
- 6.14 Under Regulation 5, retailers must not give customers false information about a wide range of matters,¹⁸⁰ or present information about those matters in a deceptive way (even if it is factually correct). This includes information about the price of a product and the existence of a specific price advantage. Doing so is a prohibited misleading action where it results in the **average consumer**¹⁸¹ taking (or being likely to take) a **transactional decision**¹⁸² that they otherwise would not have.
- 6.15 Under Regulation 6, retailers must not mislead customers by failing to give them the information they need to make informed decisions ('material information'). This includes where material information is omitted or provided in an unclear, unintelligible, ambiguous or untimely manner. Doing so is a prohibited misleading omission where it results in the average consumer taking (or being likely to take) a different transactional decision.

Impact on consumers' decision making

- 6.16 Where there are two prices for the same product,¹⁸³ the higher price is likely to be viewed by consumers as a basis for estimating the value of a product.

of the [CTSI Guidance](#) and advice provided by the ASA ([The UK Code of Non-broadcast Advertising and Direct & Promotional Marketing / Make sure the price is right: using reference pricing in ads / Promotional savings claims/ ASA rulings](#)). They may also wish to take independent legal advice.

¹⁷⁸ Advertising and price presentation are both forms of 'commercial practice' under the CPRs. The CPRs define 'commercial practice' as 'any act, omission, course of conduct, representation or commercial communication (including advertising and marketing) by a trader, which is directly connected with the promotion, sale or supply of a product to or from consumers, whether occurring before, during or after a commercial transaction (if any) in relation to a product.'

¹⁷⁹ <https://www.businesscompanion.info/en/quick-guides/good-practice/consumer-protection-from-unfair-trading>

¹⁸⁰ The full list is at regulation 5(4) of the CPRs - <https://www.legislation.gov.uk/uksi/2008/1277/regulation/5>.

¹⁸¹ The definition of the average consumer will vary depending on the facts. This means that different practices, and even the same practices in different circumstances, may be found to have different effects depending on the type of consumer they reach or affect. This concept is intended to help the courts decide if a practice is prohibited due to the impact or potential impact it has on the relevant consumers.

¹⁸² The definition of transactional decision is intentionally broad and would include the decision (i) to purchase a product on promotion (at all, or in preference to another similar but non-promoted product); and/or (ii) to sign up to a loyalty scheme; and/or (iii) the decision to use the loyalty scheme when making a purchase.

¹⁸³ Or products in the case of a bundle or multibuy offer.

- 6.17 When promotions are genuine, they can provide significant benefits to consumers. Promotions and how the price information is framed can signal a genuine discount to consumers, helping them to make informed choices and driving price competition. Promotions and price frames may be a simple and efficient way of doing this, especially in complex shopping environments in which consumers are more reliant on decision making short-cuts.¹⁸⁴
- 6.18 However, when promotions and price frames are misleading, they can lead to consumer detriment by distorting consumer behaviour, causing the average consumer to take a decision that they otherwise would not have. Given the importance consumers are likely to attach to the price¹⁸⁵ when shopping for groceries, this is likely to be the case. Misleading promotions and price frames can increase consumers' valuations of products, increase their willingness to purchase¹⁸⁶ and the amount they are prepared to pay, and reduce the amount of time they might otherwise have spent looking elsewhere.

CMA view on the application of consumer law

- 6.19 As noted at paragraph 6.4 above, existing guidance has not explicitly considered loyalty price promotions. We do so here.
- 6.20 The groceries sector is a fast-moving and competitive one.¹⁸⁷ Many grocery products have limited shelf lives, some of them are seasonal and prices can change frequently even without promotional activities.
- 6.21 When offering any type of price promotion the key underlying principles set out in the CPRs - and the related [CTSI Guidance](#) - remain the same: any promotions that claim or imply a specific price advantage must not be misleading.
- 6.22 To avoid misleading customers, supermarkets must ensure the non-loyalty price (against which the loyalty price will be assessed) is the **genuine 'usual' selling price** for the item.¹⁸⁸ The 'usual' selling price means the realistic price

¹⁸⁴ Qualitative consumer research commissioned by the CMA in relation to Unit Pricing practices found that whether a product was on offer or discounted influenced shoppers' purchases, with promotion information a key consideration used by some shoppers to assess value - https://assets.publishing.service.gov.uk/media/65b7a5e9c5aacc00da68468/___Unit_pricing_qualitative_research_report_-_Basis_Social.pdf..

¹⁸⁵ Amongst other considerations.

¹⁸⁶ Including deciding to use their loyalty card or app.

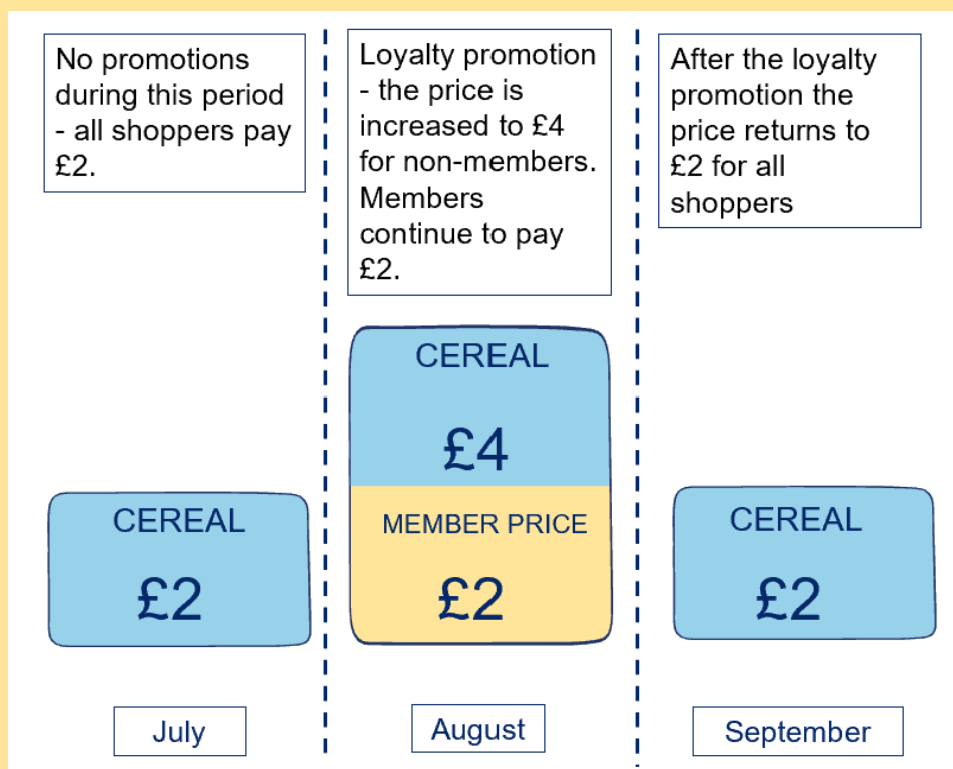
¹⁸⁷ The CMA's recent report on competition and retailer profitability in the groceries sector (analysis conducted between 2023 and 2024) has shown that competition between supermarkets is generally working well - [Competition and profitability in the groceries sector - GOV.UK \(www.gov.uk\)](#).

¹⁸⁸ In addition, supermarkets must ensure that it is not presented to consumers in a misleading way.

that shoppers (both members and non-members) would pay if the product was not on promotion. A number of factors are relevant in the assessment of whether that price is genuine and realistic (as to which see paragraphs 6.24-6.45 below, in particular).

- 6.23 **Concerns are likely to arise under consumer law where the price of a product subject to a loyalty price promotion is changed or manipulated to make the promotion look more attractive.** For example, this may occur where the non-loyalty price is increased at the start of, or shortly before, a loyalty price promotion and then reduced when, or shortly after, the promotion has ended (see **example A** below).

Example A – In July, the supermarket sells a box of cereal for £2 and all shoppers pay that price (i.e. the usual selling price). In August, the supermarket decides to increase the cost of the cereal to £4 for all non-members but claims to offer a special ‘member only’ discount and charges members £2. For members, the price in August, although claimed to be a discounted price for them, is the same as the usual selling price in July and, importantly, the price to non-members has doubled in the same period, making the alleged discount more attractive. After the promotion, the price paid by all shoppers goes back to £2. In this scenario the non-loyalty price is unlikely to be a genuine usual selling price, and the CMA considers that this pricing pattern is likely to be a cause for concern.



Ensuring that any price advantage claimed via a loyalty price promotion is not misleading

- 6.24 The CPRs (and the [CTSI Guidance](#)) do not set out any precise or prescriptive rules or requirements for assessing if the non-loyalty price, and therefore any claimed savings during a promotion, are genuine in all circumstances.
- 6.25 The CMA's view is that the easiest way a supermarket can ensure compliance with consumer law is by properly establishing the non-loyalty price of a product. That is, by offering the product for sale for a genuine and realistic price (one at which it makes a significant number of sales) for a significant period of time immediately before the loyalty price promotion. This price should continue to be charged to non-members during the loyalty promotion, and to all shoppers after the promotion has ended.¹⁸⁹ The volume of product sold at the usual price when not on promotion should be significant when compared to the volume sold at the discount price during the promotion. This approach is likely to be the key way in which a supermarket can avoid misleading consumers when it runs these promotions.
- 6.26 This approach draws on the principles set out in the [CTSI Guidance](#) (and other sector specific advice¹⁹⁰) relating to 'price establishment'. Although it does not expressly refer to loyalty pricing, the CTSI guidance is intentionally flexible to reflect the legislation on which it is based¹⁹¹ and it is therefore also relevant to this form of pricing (and CTSI may wish to consider updating it to include examples of loyalty price promotions).
- 6.27 How the principles are applied in practice – such as what constitutes a 'significant' number of sales or a suitably significant period of time – will depend on the facts, the nature of the goods being sold and other factors relevant to the sector concerned.
- 6.28 The [CTSI Guidance](#) helps by setting out various factors that should be considered when determining whether a price, and a price reduction, is genuine. This includes how long the product was on sale at the higher price relative to the period for which the price comparison is made.

¹⁸⁹ Unless other relevant factors, such as the product's input, production or wholesale costs, have changed.

¹⁹⁰ For example, the CMA issued an open letter to online businesses on urgency and price reduction claims. See, in particular Section B of https://assets.publishing.service.gov.uk/media/64232b153d885d000cdadd30/OCA_business_open_letter_FINAL.pdf

¹⁹¹ The CPRs.

- 6.29 It also states that a promotion is more likely to comply with the law where the price comparison is made for a period that is the same or shorter than the period during which the higher price was offered. The principles developed by the CMA for the online mattress sector¹⁹² also set out our view that compliance with the law is generally more likely to be achieved in that sector if this period is at least 30 days.
- 6.30 Where supermarkets are relying on price establishment to demonstrate that a loyalty price promotion complies with consumer law, the CMA's view is that, in the specific context of the groceries sector, the time for which a product should be at a non-promotional price prior to the promotion will likely vary. It is also not the only important factor. The amount charged for the product during that period and the factors that are considered when setting this price are also relevant.
- 6.31 Factors that may be relevant to the appropriate period of time and / or the price include:
- the nature of the product (which may include whether it is new to the market, its typical shelf life, and whether it is seasonal or otherwise subject to genuine price fluctuations);
 - whether the price is one at which the supermarket has made a significant number of sales (in the context of that supermarket and the sales settings), relative to the volume sold at the discount price;¹⁹³
 - wider economic factors or circumstances, such as the impacts of inflation or deflation;
 - the product's input, production and wholesale costs and a reasonable profit margin that the supermarket could reasonably expect to make in a competitive market; and
 - the duration of any loyalty price promotion relative to the period for which the usual selling price was previously charged.
- 6.32 As a general rule of thumb, we consider a supermarket is most likely to find itself on the right side of the law where, immediately before the promotion, a product is sold:

¹⁹² <https://www.gov.uk/government/publications/discount-and-reference-pricing-principles-selling-mattresses-online>

¹⁹³ Whether a retailer makes, or could reasonably expect to make, a significant number of sales at that price after the promotion may also be relevant.

- at a price which is reflective of the relevant input costs and a reasonable profit margin in a competitive market, and at which the supermarket makes a significant number of sales relative to the number of units sold at the promotional price during the subsequent loyalty promotion; and
- for a period which is both reasonably long and of the same or longer duration than any subsequent loyalty price promotion.^{194 195}

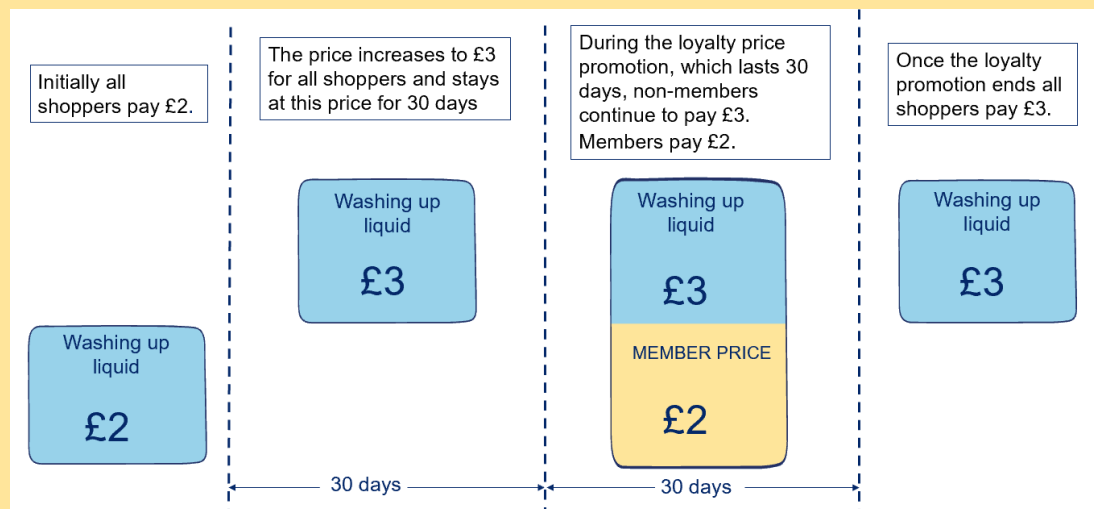
6.33 To help illustrate this point, **examples B** and **C** below both relate to pricing patterns where the non-loyalty price is increased in the days or weeks before the loyalty dual price promotion starts.

¹⁹⁴ For example, a period of 21-30 days. We also note that, although not directly relevant to the UK or loyalty dual price promotions, EU legislation (Directive 98/6/EC, Article 6a) covering reference pricing practices sets out that reference prices should be no higher than the lowest price offered in the 30 days preceding the application of a price reduction.

¹⁹⁵ We have observed examples of both relatively short-term loyalty price promotions (lasting 21 days on average) and long-term loyalty price promotions (lasting six months or longer). It may be that, in some of these cases, the retailer can justify that the “usual” price is a genuine price - where it is made available to all shoppers for a period less than 30 days and / or for a duration that is less than any subsequent loyalty price promotion - by reference to the factors described in this chapter. For example, where the usual / non-member price is always one which reflects that to be expected in a competitive market, taking account of input, production, and wholesale costs and a reasonable profit margin, and one at which the retailer makes a significant number of sales compared with the volume sold at the promotional price. Even so, we are more likely to be concerned where promotional periods significantly outlast the period of price establishment and where the retailer is unable to demonstrate in other ways that the claimed savings are genuine (see paragraphs 6.34-6.44 below).

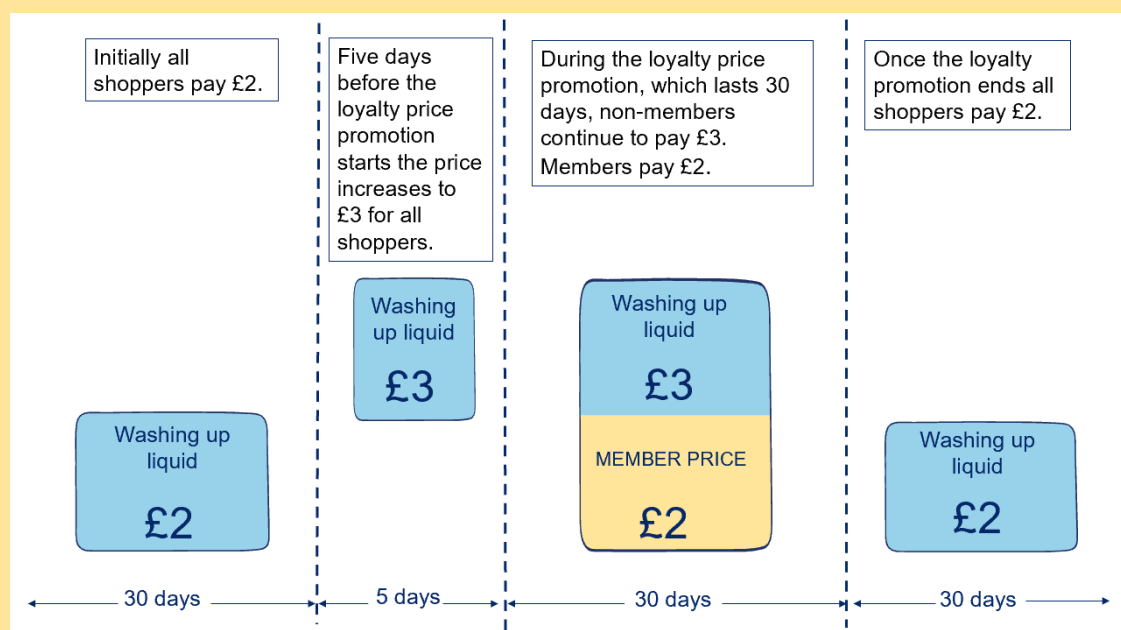
In **example B**, the supermarket increases the price of washing up liquid for all shoppers a relatively long period of time prior to the promotional offer. Specifically, the price increases from £2 to £3 for all shoppers and stays at this price for 30 days before the start of the loyalty dual price promotion. A significant number of bottles are sold during this price establishment period, when compared with the volume sold at the subsequent promotional price. During the dual price promotion, which runs for 30 days, non-members continue to pay £3 for the identical bottle of washing up liquid and members pay £2. When the dual price promotion ends, all shoppers pay £3. In this scenario, the prices for the washing up liquid are more likely than not, in the CMA's view, to be genuine and shoppers are less likely to be misled.

Example B



In **example C**, all shoppers initially pay £2.00 for washing up liquid. Five days before the loyalty dual price promotion starts the price increases to £3. During the loyalty dual price promotion non-members continue to pay £3 for the identical bottles and members pay £2 - a purported saving of £1 compared to the non-loyalty price. Immediately after the dual price promotion finishes, all shoppers pay £2.00. The CMA's view is that this scenario is more likely than not to be one in which shoppers are misled by the prices during the loyalty dual price promotion.

Example C



Other ways a loyalty pricing promotion may comply with consumer law

- 6.34 Paragraph 6.25 above sets out that the CMA considers the most straightforward way of ensuring a loyalty pricing promotion is more likely to comply with consumer law is by having the item on sale at a genuine price for a reasonable time period immediately before the promotion. However, establishing the price in this way is not the only way supermarkets can comply with the CPRs (and the [CTSI Guidance](#)).
- 6.35 Where the genuine 'usual' selling price is not established prior to the loyalty price promotion, supermarkets may be able to demonstrate in other ways that the non-loyalty price and therefore any claimed savings from that price, are genuine. The other ways a non-loyalty price may be regarded as genuine involve some of the same factors set out in paragraph 6.31 above. Those which we consider may be particularly relevant are described below.

6.36 These other ways in which a price may be regarded as genuine may be especially relevant where, for example, a product is new, seasonal and only sold at certain times, or in periods of rapid (but genuine) price fluctuation (e.g. periods of volatile inflation). They may include the following.

(i) The selling price of the product (to all customers) following the loyalty price promotion

6.37 Where the selling price has not been established prior to the loyalty price promotion - for example because the product was not in stock at all - the non-loyalty price (used during the loyalty price promotion) is more likely to be the genuine 'usual' price, and therefore represent a form of genuine reference price, where:

- the product remains for sale at that price for a significant time after the promotional period; and
- at the time of the promotion the supermarket had a reasonable expectation that they would be able to sell a significant volume at that 'usual' price.

6.38 For the reasons set out at paragraph 6.30, the 'appropriate' time a product should be available at the non-promotional price following a promotion will vary according to the nature of the product concerned. However, again as a general rule of thumb, it is more likely to be an appropriate price where it remains a product's price on an ongoing basis (e.g. for at least the same or longer duration than the loyalty price promotion).

(ii) Whether the supermarket can reasonably expect to make, or does make, a significant level of sales at the non-loyalty price during the loyalty price promotion

6.39 In line with what we say in paragraph 6.31(second bullet point) above, the volume of sales prior to (and after) a loyalty price promotion is likely to be a relevant factor when determining if the non-loyalty price is the genuine 'usual' price for the product.

6.40 However, in some scenarios, supermarkets may also be able to rely on volumes of sales to non-members during the loyalty price promotion. That is, whether the non-loyalty price during the promotion is one at which the supermarket could reasonably expect to make, or does make, significant sales.

6.41 When assessing the price in this way it is important to note that:

- i. The supermarket should have some solid evidential basis for an expectation that a significant volume of the product will sell at the non-loyalty price. For example, analysis of previous sales volumes (which may include the relative volumes of sales during previous loyalty promotions of the same product).
- ii. The number of shoppers that are not members of a supermarket's loyalty scheme is unlikely to equate to the volume of sales at the non-loyalty price. Non-members may avoid purchasing products during the loyalty price promotion. This is perhaps more likely where non-members are able to purchase an alternative product or can defer purchasing the goods until a later time when the product in question is on a different type of promotion available to all shoppers.

6.42 In some situations, such as where a supermarket has not previously sold a product, other factors may be relevant too. For example, whether the supermarket can demonstrate that the price reflects that to be expected in a competitive market, taking account of input, production and wholesale costs, and a reasonable profit margin.

(iii) Seasonal goods

6.43 Also relevant is whether the non-loyalty price reflects the appropriate price for the product at the time of the promotion. For some products, especially fresh produce such as fruit and vegetables, issues around supply and demand may explain why significant price changes occur over a short period of time.

6.44 In the CMA's view, supermarkets are less likely to comply with the law where they use a higher, out of season, price as the non-loyalty price when the product is in season. For example, charging non-members the winter price for strawberries in summer, instead of the summer price when there is much greater supply and prices are lower.

Other factors that may be relevant when considering if the offer is genuine

6.45 Paragraphs 6.23 – 6.44 above focus on pricing patterns that may suggest that a price has been inflated to make a loyalty price promotion offer seem like a better deal for members. This is where the price increases before the promotion (and in some cases reduces after the promotion). However, it is important to note that in some instances price movements may be because of other, in some cases genuine, factors such as:

- (i) Effects of inflation - Some pricing patterns may be explained by the effects of high inflation over time - for example, where the non-loyalty price increases before the loyalty price promotion starts and where the price of the product continues to rise after the promotion ends. We discuss this in more detail at Chapter 7 paragraphs 7.30 - 7.33.
- (ii) Whether the product is subject to other promotional activity before and/or after the loyalty price promotion - the presence of such promotions may, in some cases, explain potentially concerning price movements. For example, where the promotions are genuine, price movements before the loyalty price promotion begins may reflect the product returning to its genuine 'usual' price rather than the price being artificially inflated. The use of such promotions, however, also has the potential in some circumstances to distort prices and mislead shoppers. We discuss the interaction between loyalty promotions and 'was / now' promotions in more detail below.

Interaction between loyalty price promotions and other forms of promotion

6.46 Our review found that, for some supermarkets, there was a close interaction between different types of promotions (see Chapter 7, paragraphs 7.37 – 7.42). This includes where:

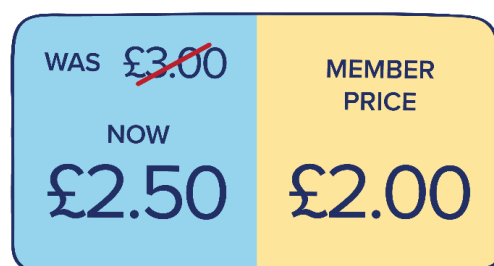
- the loyalty price promotion and the 'was / now' promotion are run concurrently; or
- the loyalty price promotion is preceded and/or followed by a 'was / now' promotion (including where this occurs on multiple consecutive occasions¹⁹⁶).

Concurrent promotions – loyalty price promotion and 'was / now' promotion

6.47 In this scenario, the product is discounted for all shoppers and a further deeper discount is available to members only (see image 6.4 below).

¹⁹⁶ For example, a loyalty offer for scheme members, followed by a 'was / now' offer for all shoppers, then another loyalty offer for members, and then another "was / now offer" for all shoppers.

Image 6.4 – Example of how a concurrent promotion might be displayed



- 6.48 The CMA's view is that whether the promotion offers a genuine saving is not affected by the fact that the two promotions are available to different groups of customers¹⁹⁷ at the same time. Rather, as with any form of price promotion, supermarkets must ensure that any price advantage claimed is not misleading, regardless of the group of shoppers at which the promotion is targeted.
- 6.49 In this case, we consider both non-members and members are likely to refer to the original 'was' price (£3 in the above example) as the basis for assessing the bargain. As such, if that price is the genuine 'usual' price for the product,¹⁹⁸ any price advantage claimed against that price is unlikely to be misleading.

Consecutive promotions

- 6.50 Below we set out our views on the factors that may be relevant when assessing if each of the following comply with consumer law:
- a 'was/now' promotion that follows a loyalty price promotion; and
 - repeated cycles of loyalty price and 'was / now' promotions.

We have focused on these scenarios as, in our view, they have the potential to mislead shoppers in certain circumstances.¹⁹⁹

¹⁹⁷ Non-members and members of the supermarket's loyalty scheme.

¹⁹⁸ Taking account of the matters set out in paragraphs 6.24 – 6.45 above.

¹⁹⁹ A retailer may also offer a product on a 'was/now' promotion before putting it on a loyalty dual price promotion. The CMA's view is that there is less potential to mislead shoppers in this scenario, provided the retailer uses a genuine and realistic usual selling price as the form of reference price. For example, there is less risk of shoppers being misled in the specific context of the fast-moving consumer goods sold by supermarkets where: (i) a retailer sells a product in month 1 for, say, £1, where £1 is a price reflecting input and wholesale costs and a reasonable profit margin, and the retailer sells a significant volume of the product; (ii) in month 2, the retailer sells the product

- 6.51 The same principles apply as with other forms of price promotion. The supermarket must not mislead consumers about the saving or bargain on offer and the prices used as forms of reference price (whether the non-loyalty price or the 'was' price) must be genuine and realistic usual selling prices. Concerns will arise where the sequence of promotions means consumers are likely to be misled about the bargain or saving presented to them.
- 6.52 Loyalty scheme members, for example, must not be misled about the value of the deal being offered to them in these scenarios. Where a supermarket has a large loyalty scheme membership, and all the more so where that membership likely exceeds 50% of its shoppers, the average consumer in this context is likely to be a member of that scheme, and they are likely to be paying the loyalty price during loyalty promotions. **Examples D and E** below help illustrate the potential for these consumers to be misled during these sorts of repeated promotions.

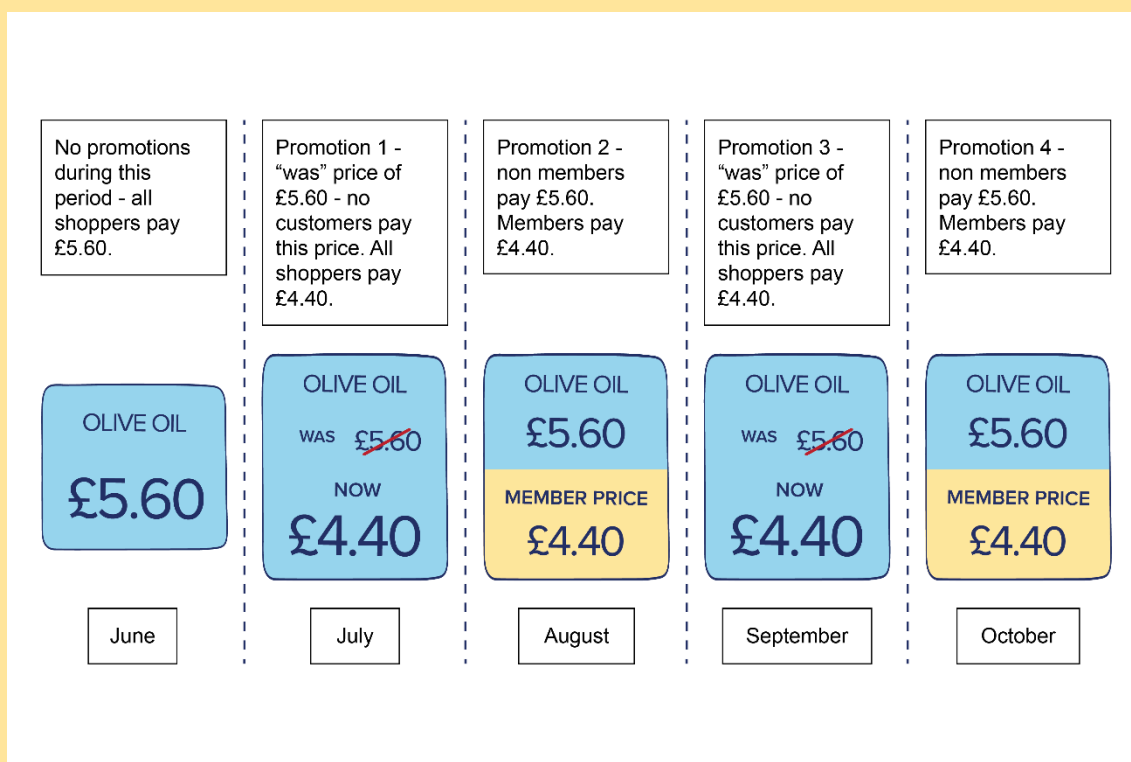
on a special offer of "was £1, now 75 pence"; and (iii) in month 3, it sells the product in a loyalty dual price promotion where the non-member price is £1 and the member price is 75 pence, before in month 4 it reverts to selling the product to all shoppers for £1. In those scenarios, the reference prices in months 2 and 3 are consistent with a genuine and realistic usual selling price.

Example D – Throughout July the supermarket sells a jar of pasta sauce for £2.20 and in that month all shoppers pay that price. During August, the supermarket decides to feature the pasta sauce in a loyalty dual price promotion where non-members continue to pay £2.20 and members (who are a large proportion of the relevant supermarket’s shoppers) pay £1.65. In September, the supermarket runs a ‘was / now’ promotion on the same sauce, where the ‘now’ price all shoppers pay is £1.50, and the ‘was’ price is shown as £2.20.



In ‘Promotion 1’ two prices are payable for the same jar of pasta sauce: £1.65 for loyalty scheme members and £2.20 for non-members. Promotion 2 risks misleading the average consumer because, although it states the ‘was’ price as £2.20, the pasta sauce was previously available, and likely mostly sold, for £1.65. Accordingly, the bargain or saving offered to the (average) consumer during Promotion 2 is likely to be overstated.

Example E – In June, the supermarket sells a bottle of olive oil for £5.60 to all shoppers. Throughout July, it decides to feature the same product in a ‘was / now’ promotion, where all shoppers pay a ‘now’ price of £4.40, reduced from a ‘was’ price of £5.60. In August, the supermarket (which again has a large loyalty scheme membership) then runs a loyalty dual price promotion where non-members pay £5.60 for the olive oil and members continue to pay £4.40. This is followed by a repeat of the ‘was (£5.60) / now (£4.40)’ promotion run in July and then another cycle of the loyalty dual price promotion (with non-members paying £5.60 and members paying £4.40).



In this example, the ‘was / now’ promotion in ‘Promotion 3’ indicates the ‘was’ price as £5.60 for the bottle of olive oil. As with example D, there were in fact two prices payable in the preceding period (‘Promotion 2’ in this example): £4.40 for loyalty scheme members and £5.60 for non-members. Promotion 3 could, therefore, deceive the average consumer (who is a loyalty scheme member) because the price previously payable by them was £4.40, and it is unlikely the olive oil will have been sold in significant volumes at £5.60 for some time. The saving offered to them in Promotion 3 is accordingly likely to be overstated.

- 6.53 In **Example E**, there are also multiple, consecutive promotions. These can make it even more difficult for shoppers to work out a product’s genuine usual price and to have an accurate benchmark to which offers should be compared. This increases the potential for them to be confused and misled. The price being directed to scheme members in Promotion 4 as a reference

price (the non-member price of £5.60) is a price that was last payable by them four months and three promotions ago.

- 6.54 If supermarkets choose to use loyalty prices, or another form of reference pricing, it is important that shoppers understand the price comparisons put to them and are able to make informed choices. Without a meaningful reference price shoppers are less likely to be able to assess whether promotional prices (both 'now' prices and member prices) represent genuine savings. The best way, in the CMA's view, for supermarkets to stay on the right side of the law would be to avoid running consecutive price promotions that have the potential to mislead shoppers (as in examples D and E), and instead find alternative ways to lower prices.²⁰⁰

Conclusion

- 6.55 Like other promotions that claim or imply a specific price advantage, loyalty price promotions must not mislead shoppers. To avoid this, supermarkets should ensure that the non-loyalty price (against which the loyalty price will be assessed) is the genuine and realistic 'usual' selling price for the item.
- 6.56 The CMA's view is that the easiest and best way a supermarket can ensure a loyalty pricing promotion complies with consumer law is by properly establishing the non-loyalty price of a product.
- 6.57 Where the non-loyalty price is not established prior to a loyalty price promotion, supermarkets may be able to demonstrate in other ways that the non-loyalty price is genuine. Factors which may be relevant include:
- (i) whether the product remains for sale at the non-loyalty price (to all customers) for a significant time following the loyalty price promotion, and, at the time of the promotion, the supermarket had a reasonable expectation that they would be able to sell a significant volume at that 'usual' price once the promotion had ended;
 - (ii) whether the supermarket can reasonably expect to make, or does make, a significant level of sales at the non-loyalty price during the loyalty price promotion; and
 - (iii) whether the non-loyalty price is an appropriate price for the product at the time of the promotion, considering issues such as seasonality (where relevant), the input, production and wholesale costs, a

²⁰⁰ For example, ways to lower prices that do not involve framing them by reference to back-to-back promotions.

reasonable profit margin that could be expected in a competitive market, and inflationary (or deflationary) effects.

- 6.58 If supermarkets choose to run consecutive promotions, they must not mislead shoppers. Often, the best way for supermarkets to avoid this risk would be to find alternative ways to lower prices instead of using back-to-back promotions.

7. A price analysis of products on a loyalty promotion to assess whether these promotions could be misleading for shoppers

Introduction

- 7.1 This chapter sets out our analysis of pricing data we requested from five supermarkets with loyalty pricing operating across Great Britain or the UK (see chapter 1).
- 7.2 In our assessment we compared the non-loyalty price during a loyalty offer to the selling price before and after the promotion to understand how prices changed around loyalty offers, and to assess whether these price changes could mean that the loyalty promotion was misleading to shoppers.
- 7.3 We also looked at how loyalty price promotions interact with other types of promotions available to all shoppers such as ‘was/now’ promotions. We looked at whether the proximity of these offers to a loyalty price promotion had any impact on the potential of the non-loyalty price to mislead shoppers.
- 7.4 In addition, we examined the characteristics of loyalty price promotions, including their prevalence and the average percentage discount for members across the supermarkets which offer them (see paragraph 7.11).
- 7.5 Overall, we found very limited cause for concern. The overwhelming majority of loyalty price promotions we analysed did not have pricing patterns that suggested the non-loyalty price may have been inflated by the supermarket in a manner which meant the bargain being presented to loyalty members was misleading and in breach of consumer law.

Data

- 7.6 We analysed pricing data obtained from all large supermarkets operating across Great Britain or the UK with active loyalty pricing at the start of our review.²⁰¹ The supermarkets analysed were Tesco, Sainsbury’s, Waitrose,

²⁰¹ Information was obtained using our powers under Part 3 of Schedule 5 of the Consumer Rights Act 2015. The information we obtained is specified information under section 237 of the Enterprise Act 2002 (EA02) which we are generally prohibited from disclosing unless (among other things) disclosure is for the purpose of facilitating the exercise of our statutory functions (even then we must consider: (i) whether disclosure is in the public interest; (ii) likewise, whether it may cause significant commercial harm to the company to which it relates; and (iii) whether disclosure is necessary for the permitted purpose.) The relevant statutory function here is the

Co-op and Morrisons. We gathered a year of daily pricing data for products which were on a loyalty price promotion in either August or November of 2023. This enabled us to see how the selling price changed over time including before and after a loyalty price promotion. We also gathered data covering all loyalty price promotions available between 1 February 2023 and 31 January 2024 which allowed us to both assess the representativeness of our sample and to understand the loyalty price promotion landscape across a full year.

- 7.7 The loyalty offers we requested data for consisted of dual pricing,²⁰² bundle²⁰³ and multibuy²⁰⁴ loyalty promotions. We excluded other long-term loyalty promotions such as meal deal promotions.²⁰⁵ We also only requested and analysed prices for grocery products and not other types of products with a loyalty price.²⁰⁶
- 7.8 The analysis was conducted on a sample of offers consisting of all dual price loyalty promotions running in August and November 2023 for each supermarket and most bundle (including multibuy) promotions for some supermarkets. The sample months were selected as being (i) broadly representative of the range of promotions available across the year as a whole and (ii) providing a suitably large sample. The total number of dual price loyalty promotions we analysed was around 30,000 out of a total of 86,000 for the whole year – these promotions involved around 50,000 products.²⁰⁷

exercise of our enforcement powers under Part 8 EA02 (or considering whether to exercise those powers). This statutory framework means we cannot use information we have obtained pursuant to our powers for other purposes.

²⁰² Loyalty dual price promotion means a loyalty promotion that applies to a product, where there is a loyalty price and a non-loyalty price for it. For example, loyalty price 50p, non-loyalty price 75p.

²⁰³ Loyalty bundle promotions are promotions where an offer is available when buying a number of different products together. This could be a bundle where products from a range of different products have either the same price, a different price or a combination of the two, such as 'buy 3 of a range of frozen vegetables for the price of £2'.

²⁰⁴ A multibuy is a type of bundle promotion where there is an offer available for buying a number of the same product, such as 'buy 3 of item X for the price of 2'.

²⁰⁵ Meal deals promotions include the lunch time meal deal where you can choose a main, snack and drink for a set amount of money (eg £5).

²⁰⁶ Large supermarkets also offer household goods and clothing with loyalty dual prices. This was out of scope of our review which focused on groceries.

²⁰⁷ A loyalty dual price promotion may include more than an individual product. For example, a single dual price promotion may encompass multiple flavours or other variations of a product. As such, the number of products on a loyalty dual price promotion in our dataset is larger than the number of loyalty dual price promotions reported.

Findings: Overview of loyalty promotion landscape (1 Feb 2023 – 31 Jan 2024)

- 7.9 In aggregate, the five supermarkets had around 88,000²⁰⁸ loyalty price promotions across the year. Broadly, the supermarkets split into two groups: those with large scale loyalty pricing which covered thousands of products in any given month, and a second group with smaller scale loyalty pricing covering a few hundred products each month. The majority of offers were dual price loyalty promotions as opposed to multibuy and bundles. Multibuy and bundle promotions made up less than two percent of loyalty offers across the supermarkets where they were available.
- 7.10 Multibuy and bundle loyalty promotions were not available at all supermarkets. Sainsbury's and Waitrose did not offer these types of promotions during the period of data we analysed.
- 7.11 We also analysed the characteristics of the promotions available and found that they were broadly similar across the supermarkets.
- All five supermarkets had more branded products on loyalty promotion than own brand products. The percentage of loyalty promotions that were on branded products was between **58 and 90%**.
 - The average length of loyalty promotions was between **17 and 26** days.
 - The average discount available to loyalty scheme members was **17-25%** of the non-loyalty price. The percentage discount varied slightly depending on whether the product on promotion was branded or not. The average loyalty discount for branded products was **18-25%** and for unbranded products it was **15-23%**.
 - Loyalty price promotions were offered across a broad range of product categories. Categories included fresh and frozen foods, non-perishable items (e.g. confectionery, biscuits and fizzy drinks), as well as household products and personal hygiene items.
- 7.12 Our analysis of the supermarket data has also shown some of the supermarkets have frequent loyalty price promotions on certain products across the year.

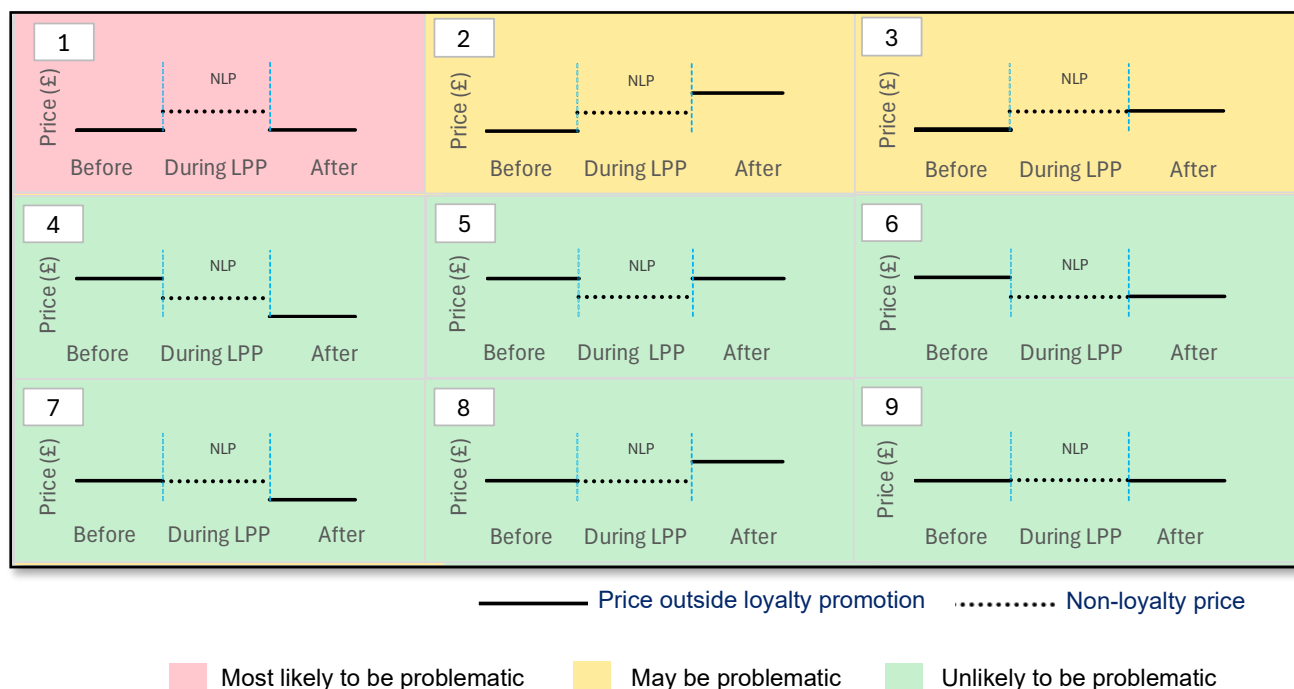
²⁰⁸ This figure covers both the loyalty dual price promotions and loyalty bundle promotions analysed by the CMA.

Dual pricing analysis methodology

- 7.13 This section outlines the analysis conducted on loyalty dual pricing promotions to determine whether there were any potentially concerning pricing practices and, if so, the number of offers affected.
- 7.14 In total, we tested approximately 27,000 individual products that were subject to a loyalty price promotion in August 2023 and approximately 24,000 products that were subject to a loyalty price promotion in November that year.
- 7.15 To determine whether offers exhibited a potentially concerning pricing pattern we tested whether the non-loyalty price during the offer was the same as the price charged to all shoppers for 28 days before and 28 days after the loyalty price offer. If the prices were not the same, we examined whether the non-loyalty price was higher or lower than the prices available outside of the promotion.
- 7.16 We also examined shorter time periods of 1, 7, 14, and 21 days before and after an offer. These intervals were chosen to enable us to understand for how long non-loyalty prices are equal to the selling price outside of the promotion.
- 7.17 In addition, we compared prices over a longer time period of 35 days before and after an offer. This longer period was chosen to allow us to understand the pricing patterns over a period longer than the average length of a loyalty price promotion. We were also interested in analysing the pricing patterns across 35 days because historic pricing practices guidance²⁰⁹ advised that a price used as a basis for comparison should have been the retailer's most recent price available for 28 consecutive days or more. Hence, we examined whether this legacy guidance was influencing price setting behaviour.
- 7.18 We combined the price changes before and after the offer to show nine possible pricing patterns/scenarios which are illustrated in table 7.1. In these diagrams we show the three time periods (before, during and after the promotion). The section to the left in each graph represents the pre-promotion period price for all shoppers, the middle section (with the dotted line) represents the non-loyalty price during the promotion for non-members of loyalty schemes, and the section to the right represents the price for all shoppers after the promotion.

²⁰⁹ Guidance produced by the Department for Business Innovation and Skills in 2010. <https://assets.publishing.service.gov.uk/media/5a80c18e40f0b62302695536/10-1312-pricing-practices-guidance-for-traders.pdf> This guide was withdrawn in 2016 and replaced with the current CTSI Guide.

Table 7.1 – Nine possible scenarios for the Non-loyalty Price (NLP) and the prices before and after the promotion.



Notes:

- (1) These diagrams present a stylised representation of the pricing patterns tested for. The before and after sections of the graph indicate if the price of the product increased or decreased at any point in the relevant test period (1, 7, 14, 21 or 28 days) before or after the loyalty price promotion.
- (2) The price outside the loyalty promotion could be either a usual price or the promotional ('now') price in a 'was/now' promotion. In both cases, it is a price available to all shoppers.
- (3) The blue vertical dashed lines represent the points in time where the loyalty promotion begins and ends.

- 7.19 The colour coding reflects the CMA's views on whether the pricing practices are more or less likely to fall foul of consumer law requirements.
- 7.20 In particular, and as set out more fully in Chapter 6, the CMA's view is that the non-loyalty price presented during a loyalty promotion must be the genuine and realistic 'usual' selling price for the product. The best way for supermarkets to ensure this is to 'establish' the price before the promotion (and maintain it afterwards). That is, by offering the product for sale for a genuine and realistic price (e.g. one at which it makes a significant number of sales relative to the volume sold at the promotional price) for a significant period of time immediately before the promotion (and thereafter).
- 7.21 As to what amounts to a suitably significant period of time, we set out in Chapter 6 the CMA's view that a retailer is most likely to find itself on the right side of the law where the period is:

- reasonably long (eg 21-30 days); and

- the same duration or longer than any subsequent loyalty price promotion.²¹⁰
- 7.22 We considered the pricing patterns we have observed with the above points in mind. We have highlighted in green the six scenarios we consider unlikely to be misleading promotions.²¹¹
- 7.23 When the selling price before the promotion is equal to the non-loyalty price during the promotion, the promotion is unlikely to be misleading as the price has likely been properly established.²¹² This is the case in boxes 7, 8 and 9.
- 7.24 Less common but also similarly unlikely to give rise to a misleading promotion is a scenario where the non-loyalty price during the promotion is lower than the selling price charged before the promotion. This is shown in boxes 4, 5 and 6.
- 7.25 The red box (box 1) represents the scenario we think is most likely to indicate that a promotion may be misleading. This is the scenario in which the non-loyalty price during the offer is higher than the price both before and after the offer. This could suggest that the non-loyalty price during the offer was inflated to make the loyalty offer seem like a better deal to shoppers.
- 7.26 The two amber boxes (boxes 2 and 3) represent scenarios which could be indicative of misleading promotions depending on other factors at play. In both, the non-loyalty price during the promotion is higher than the selling price before the promotion and therefore may overstate the value of the promotion (the loyalty price is being compared to a higher non-loyalty price during the promotion than that which was charged before the promotion).
- 7.27 The pricing pattern in these amber boxes could be misleading to shoppers if the increased price artificially inflates the saving afforded by the promotion. Given that the non-loyalty price during the offer is not the established price before the offer, the supermarket would need to demonstrate in other ways that the prices and claimed savings are genuine (see paragraphs 6.34 – 6.44 in Chapter 6). In both boxes, the overall trend could, for example, be a result of the effects of food price inflation which was unusually high during 2023.

²¹⁰ And we are more likely to be concerned where promotional periods significantly outlast the period of price establishment and where the supermarket is unable to demonstrate in other ways that the claimed savings are genuine.

²¹¹ Assuming other factors such as volumes of sales do not reveal a problem.

²¹² We think this is more likely to be the case in the groceries sector than may be the case in some others. Where supermarkets operate in a competitive market they are unlikely to use valuable shelf space offering products for sale at prices that would not be expected to generate significant sales.

Analysis of loyalty dual price promotions

Green promotions

- 7.28 Across the supermarkets, we found that the majority of the products that were on a loyalty price promotion fell into one of the green boxes – the category we consider is unlikely inherently to indicate that a loyalty promotion is misleading. **When considering a 28-day window before and after the offer, amongst products on a loyalty dual price promotion in August 89% fell into this category. Amongst products on a loyalty dual price promotion in November, 97% fell into this category.**²¹³ These percentages were higher when shorter time periods were used in the tests.
- 7.29 Of those offers that we assessed to fall within the green categories, most of them (69% in August and 80% in November) fell into box 9, i.e., the price charged in the period immediately before the loyalty price promotion was the same as the non-loyalty price charged during the promotion, which in turn was the same as the price charged in the period immediately after the promotion ended. These results held across all of the five time periods²¹⁴ that we tested, as well in the case when the window before the beginning of the dual price promotion was extended to 35 days.
- 7.30 We consider that this shows that, across the thousands of promotions that we tested, supermarkets in most cases did not adopt pricing patterns that suggest shoppers are likely to have been misled in breach of consumer law. Supermarkets operate in a competitive market where shelf space is likely at a premium, and the patterns tend to indicate that the non-loyalty price during the loyalty dual price promotion is in most cases properly established before (and often continues after) the promotion.²¹⁵

Red promotions

- 7.31 Across the supermarkets collectively, and for each individual supermarket, we only found a very small proportion of offers that fell into the red box. **When analysing using a 28-day window either side of the loyalty dual price**

²¹³ The weighted average for both periods was 92%.

²¹⁴ The five time periods we used to test how prices had changed either side of the loyalty offer were 1 day, 7 days, 14 days, 21 days, and 28 days.

²¹⁵ That said, we have not investigated all aspects of individual cases, including how prices and offers might have been displayed or communicated to shoppers in specific circumstances. Shoppers may still be misled in particular cases if, for example, a supermarket sets prices in the periods before loyalty dual price promotions begin that are not genuine and realistic (which may be indicated by a failure to make significant volumes of sales at that prior price) and/or prices are displayed or communicated to shoppers in other misleading ways.

promotion, we found that only 0.7% and 0.5% of products on August and November offers fell into the red category, respectively.²¹⁶ When shorter testing periods (see paragraph 7.16) were applied either side of the offer, the percentages of offers that fell into the red category were even smaller. Increasing the window examined before the offer to 35 days did not lead to a notable increase in the proportion of red promotions observed.

7.32 As expanded upon in the section below headed '*Other price promotions*',²¹⁷ it is the CMA's view that, while we consider that promotions which exhibit the red pricing pattern are the most likely to be misleading, such a pattern may not mean consumers are misled in all instances. Amongst other factors, the observed price increase and price decrease before and after the loyalty dual price promotion starts and ends, respectively, may, in some cases, be attributed to the supermarket's use of 'other' promotions. The existence of these other promotions, and the circumstances in which they occur, are relevant to whether consumers are likely to be misled.

Amber promotions

7.33 Out of the approximately 27,000 products on loyalty dual price promotions in August that we tested, 10.5% fell into one of the two amber boxes. In November, out of the approximately 24,000 products on loyalty dual price promotions that we tested, this number fell to 3.0%.²¹⁸ Increasing the window examined before the offer to 35 days did not lead to a significant change in the proportion of amber promotions observed.

7.34 As described earlier in this report, our sample contains loyalty price promotions that ran during August or November 2023. That year (particularly in the first half) was a period of high food price inflation, in part driven by inflation of input costs.²¹⁹ It is plausible therefore that price increases in close proximity to the start of a loyalty price promotion may be genuine responses to inflation in the grocery sector, rather than price manipulation.

7.35 Our findings show that across all supermarkets *and* at each supermarket, there was a significantly higher prevalence of amber offers in August compared to November. The pattern of a significantly lower prevalence of

²¹⁶ The weighted average for both periods was 0.6%.

²¹⁷ And explained further in Chapter 6 of this report.

²¹⁸ The weighted average for both periods was 6.9%.

²¹⁹ For example, the ONS reported that food price inflation in the 12 months ending March 2023 was 19.1%, the highest rate in over 40 years. [Food and energy price inflation, UK: 2023 \(ons.gov.uk\)](https://www.ons.gov.uk)

price increases shortly before the offer in November compared to August is consistent with the easing of food price inflation towards the end of 2023.²²⁰

- 7.36 Given this, and the relatively low proportion of amber offers overall, we consider it is less likely that these price increases represent price manipulation than that they represent genuine responses to upwards retail price pressure in the grocery sector or other factors affecting price.

Other price promotions

- 7.37 Chapter 6 discusses the interaction between a non-loyalty price and ‘other’ promotions and the impact this may have when assessing if the loyalty dual price promotion offers a genuine saving for members (and/or whether shoppers are misled by some offers). In our analysis, we have looked at products that were on a loyalty price promotion but had also been on another type of promotion in the 28-day period before the loyalty promotion and/or the 28-day period afterwards.
- 7.38 Some of the more likely problematic pricing patterns we have observed (ie those categorised in the red box in Table 7.1, where the non-loyalty price during the offer was above where it had been before and after the offer) may arise because a ‘was/now’ promotion took place in the relevant test period (which could be up to 28 days) either side of the loyalty price promotion. For example, a price increase before the start of a loyalty price promotion could be because: (i) the product was on a ‘was/now’ promotion; and (ii) that promotion ended and the ‘was’ price was used as the non-loyalty selling price during the loyalty promotion.
- 7.39 Our analysis of the red promotions indicated that, in the vast majority of cases at supermarkets where ‘was/now’ promotions are available, there were interactions between different types of promotions. In particular, of the red offers in August across the supermarkets offering ‘was/now’ promotions,²²¹ **96%** had a ‘was/now’ promotion that ended within 28 days before the loyalty dual price promotion started, and/or had a ‘was/now’ promotion that started within 28 days of the loyalty dual price promotion ending. Of the ‘red’ offers we found in November, **95%** fit these criteria.

²²⁰ The ONS recorded food and non-alcoholic beverage price inflation of 9.2% in the 12 months to November 2023, down from 13.6% in the 12 months up to August 2023. [Cost of living insights - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/cost-of-living-insights)

²²¹ Sainsburys, Morrisons, The Co-op and Waitrose offer ‘was/now’ promotions in addition to their loyalty programmes.

- 7.40 The existence of these other promotions can, therefore, explain many of the ‘red’ pricing patterns we observed. Based on what we have seen, and taking into account the very small number of these cases, our findings do not suggest significant, systemic issues with consumer law compliance.
- 7.41 Even so, it is important for grocery retailers to keep in mind that the same principles apply where they run consecutive promotions as where they run a single loyalty dual price promotion or a single ‘was / now’ promotion. They must not mislead consumers about the saving or bargain on offer and the prices used as forms of reference price (whether the non-loyalty price or the ‘was’ price) must be the genuine ‘usual’ price.
- 7.42 Concerns will arise where a sequence of promotions means the average consumer is likely to be misled about the bargain or saving presented to them. Such concerns may be more likely to arise where a grocery retailer has a large number of shoppers in its loyalty scheme, especially where the proportion of scheme members is more than 50% of shoppers, where any sales at the higher non-loyalty price are likely to be small by comparison to the sales at the lower loyalty price. As set out in chapter 6 (paragraphs 6.50-6.54), if supermarkets do run consecutive promotions, they must ensure they do not mislead shoppers in any respect.

Bundle pricing analysis methodology

- 7.43 We focused our analysis on dual price promotions as they make up most of the supermarkets’ loyalty offers and we considered there was more potential for problematic price manipulation to occur. In contrast, for bundles we expected there to be less incentive to manipulate the price of the individual products to make the bundle look more appealing. This is because there are likely to be shoppers who just want to buy the individual items²²² and they may be deterred from buying these if its price rises. We did, however, wish to do some analysis to confirm that there were not obvious signs of problems.
- 7.44 Our analysis focused on bundles where a fixed number of goods could be bought for a fixed price (for example, ‘3 packs of meat for £10’). Only two supermarkets offered these bundles in significant numbers and are included in our analysis. We considered products that were part of these promotions in either August or November, and across these two supermarkets analysed

²²² Purchasing a product outside of a bundle or as part of a bundle are not identical propositions. For example, a consumer who purchases item A absent any bundle promotion will only be able to make a saving on item A if they are willing to purchase other items available in the bundle - for example items B and C. This additional friction in switching into bundles means the scope for price manipulation to be an effective strategy for supermarkets is more limited for bundles.

approximately **3,900 products in August** and approximately **3,700 products in November**.

- 7.45 We analysed bundle promotions using a similar methodology to the analysis of loyalty dual price promotions. We examined whether the prices of products on bundle promotion change in the immediate period before the promotion. We also examined the direction of any price changes.
- 7.46 In contrast to our dual pricing analysis, we only considered price movements before the offer instead of what happened before and after the offer. This is because, on average, bundle promotions last significantly longer than loyalty dual price promotions²²³ and so it is less likely that price changes before and after the bundle promotion would be coordinated to artificially inflate the value of the offer throughout its duration.
- 7.47 In the period immediately before the offer begins, we consider that a price increase of a single item in the bundle can increase the attractiveness of purchasing that item in the bundle compared to purchasing it without the offer. We also consider that the supermarket has incentive to increase the price closer to the start of the offer, rather than further in advance of it, as an earlier price increase would (assuming it is not related to market conditions) mean charging a price that is higher than the supermarket would otherwise choose, and which may deter purchases of single units of the item, for longer.
- 7.48 We also examined how the usual prices of products evolved whilst the product was part of a loyalty bundle promotion. Unlike in loyalty dual price promotions, where the non-loyalty price was constant during the period of the loyalty dual price promotion, we found that not all products have a constant individual price whilst they are part of a bundle. We examined any such price changes to assess whether their direction and proximity to the start of bundle promotions could imply that the price was being manipulated to increase the attractiveness of the bundle promotion.

Bundle pricing analysis findings

- 7.49 Our analysis of bundles shows that, in the vast majority of cases, the price of the tested product was the same for the entirety of the period leading up to the bundle promotion, and that price was the same on the first day of the promotion. Of the products entering an August bundle promotion, 75% had a constant price for the 28 days leading up to the first day of the bundle

²²³ The median duration of loyalty bundle promotion across the promotions analysed was approximately 9 weeks long. The median duration of the loyalty dual price promotions is approximately 3 weeks long.

promotion, as well as on the first day itself. For November bundle promotions, this percentage was 82%.

- 7.50 As explained above, a price increase in the period before the product enters a bundle offer could be problematic. The number of products with such a price increase as a proportion of all products tested was 17.1% and 5.6% in August and November, respectively.
- 7.51 As also discussed above, we consider that, in the specific context of our sample, inflationary pressure on retail food prices may explain some of the observed price increases in our sample. Similar to our analysis of amber dual price promotions, we find in the bundles context that the proportion of price increases was significantly higher for products that were part of a bundle in August, compared to November. This is consistent with the higher rates of retail food price inflation earlier in 2023.
- 7.52 As with our analysis of dual price promotions, we also examined how many products saw a price increase within shorter periods before entering a bundle offer. As mentioned in paragraph 7.47, we would consider price increases within shorter periods before the offer to be more likely to represent price manipulation, given the incentives to do so. When considering a 14-day period, the percentage of price increases observed falls to 5.9% in August and 4.2% in November.
- 7.53 When examining whether prices were increasing during the offer, we found that 9.3% of products included in a loyalty bundle promotion in August saw a price increase in the 28 days following the start of the offer. In November, 5.3% of products saw a price increase in the first four weeks of the offer. This suggests that supermarkets were not manipulating prices during the offer such there would be an increase in attractiveness that would apply for a large proportion of the duration of the offer.
- 7.54 As explained above, we found that on an individual product level, there were few examples of pricing patterns that indicated the possibility of potentially misleading promotions. As a particular bundle promotion comprises multiple individual products at once, we also analysed whether the small number of observed price increases (either shortly before or after the start of the bundle promotion) were concentrated in a particular bundle or set of bundles, such that some bundle promotions individually may have presented a misleading representation of the saving they afforded to members.
- 7.55 Further analysis showed that the small number of observed price increases were not concentrated in any particular bundle, which suggests that these

price increases did not increase the perceived attractiveness of any particular bundle promotion as a whole.

- 7.56 Accordingly, and similarly to the findings of our analysis of dual price promotions, given the small proportion of potentially problematic price movements, and the inflationary context of the period, we consider it is unlikely that these price increases represent problematic pricing practices.

Summary of loyalty price analysis findings

- 7.57 Overall, the overwhelming majority of loyalty price promotions we analysed did not have pricing patterns that suggested the promotions are likely to have misled shoppers about savings against the 'usual' price of the product. Our analysis has shown there is very limited evidence to suggest that supermarkets may have been artificially increasing the non-loyalty price to make the loyalty price promotion appear misleadingly attractive.
- 7.58 For the vast majority of loyalty dual price promotions, the price charged for products in the period immediately before or after the loyalty price promotion was the same as or lower than the non-loyalty price charged during the promotion.
- 7.59 Similarly, our analysis of loyalty bundle promotions shows limited cause for concern as the vast majority of products experienced no price increases in the lead up to or during the first few weeks of a bundle promotion.
- 7.60 Of the few promotions that did display a pricing pattern which could lead to misleading non-loyalty prices, we found that many of these occurred during a period of high food price inflation or involved 'other promotions' within the 28-day period either before or after the loyalty dual price promotion.
- 7.61 The potentially concerning offers we identified made up such a small proportion of the overall offers available from the supermarkets that they do not represent a systemic problem or show that supermarkets are seeking to mislead consumers. Supermarkets must, nonetheless, ensure they comply with the law on an ongoing basis. We have therefore written to those supermarkets that use loyalty pricing to advise them to review their practices in line with our guidance at Chapter 6 and, where necessary, take action to ensure **all** of their promotions comply with consumer law.

8. How do loyalty prices compare with other supermarkets' prices?

Background and objectives

- 8.1 Chapter 7 sets out the findings from our analysis of non-loyalty prices charged by supermarkets for products subject to loyalty promotions. The aim of that analysis was to assess whether loyalty prices were misleading and therefore potentially in breach of consumer law.
- 8.2 This chapter describes the analysis we have conducted to compare the price of products which are subject to a loyalty price at one or more supermarkets, with the prices that are available at other supermarkets at the same time. The purpose of this chapter's analysis is not to assess compliance with consumer law, but to shine a light on how loyalty prices compare to the prices charged by other supermarkets for that same product. In doing so, we aimed to establish whether loyalty prices were typically the cheapest price available at that time.

Loyalty price comparisons in the media

- 8.3 As set out in previous chapters, stakeholders and news articles have raised questions about whether loyalty prices offer shoppers savings compared to the prices charged by other supermarkets. For example, Which?'s 2023 investigation into supermarket loyalty pricing,²²⁴ highlighted examples of loyalty priced products where:
- the loyalty price was a similar price to the selling price at some other supermarkets; and/ or
 - the non-loyalty price for the product on a loyalty price promotion was higher than the 'regular' price charged by some other supermarkets.
- 8.4 Which? has suggested that such findings indicate that some loyalty price promotions may not be genuine offers.²²⁵

²²⁴ See for example: ["Loyalty cards compared: Clubcard vs Nectar and more" Which?](#), 22 August 2024.

²²⁵ See, for example: ["Which? uncovers dodgy-looking supermarket loyalty discounts" - Which? News](#), 15 September 2023. Subsequent to the CMA beginning our review of loyalty pricing, Which? also looked at the use of loyalty pricing beyond supermarkets in the wider retail sector: ["Loyalty discounts aren't always as good as they look: Which? Investigation" - Which? News](#), 22 August 2024

The purpose of comparing prices across supermarkets

- 8.5 A key priority for the CMA is to help people be sure they are getting great choices and fair deals. Consumer law does not require retailers to make loyalty prices cheaper than the prices charged by other retailers for that same product. Nor does it require non-loyalty prices for products on a loyalty price promotion to be similar to the prices charged by other retailers.
- 8.6 Provided they do not mislead people, supermarkets are free to set their prices how they choose and the CMA's recent reports on competition and profitability in the groceries sector, published in 2023 and 2024, have shown that competition between them is generally working well.²²⁶
- 8.7 While our comparison of prices will not determine whether loyalty prices are 'genuine' under consumer law, it can still be valuable for shoppers. We think it is helpful for us to assess if the products identified by Which? and in other media articles are isolated examples, or part of a broader pattern. In other words, are loyalty prices typically not cheaper than other supermarkets' 'usual' prices, or are non-loyalty prices higher than typical non-promotional prices?

Specific objectives of this comparative price analysis

- 8.8 The overall objective of this comparative analysis is to examine how similar the loyalty price charged by the relevant supermarket(s) was to prices charged by other supermarkets at the same time. Specifically, we wanted to:
- assess whether loyalty prices are generally the cheapest prices that products are available for across the supermarkets included in our sample;
 - where a loyalty price was not the cheapest price the product was available for, examine how often the cheapest available price was:
 - (i) another supermarket's non-promotional selling price for the product;
or
 - (ii) another type of promotional price offered by a different supermarket;
and

²²⁶ [Competition and profitability in the groceries sector - GOV.UK \(www.gov.uk\)](https://assets.publishing.service.gov.uk/media/64b80adaef5371000d7aeefb/Competition__choice_and_rising_prices_in_groceries.pdf), CMA, 26 July 2024 and https://assets.publishing.service.gov.uk/media/64b80adaef5371000d7aeefb/Competition__choice_and_rising_prices_in_groceries.pdf, CMA 20 July 2023.

- gain some understanding of the magnitude of price differences between the loyalty price of products in our sample and the prices these were available for at different supermarkets at the same time.

Summary of key findings

- 8.9 Our comparative analysis has indicated that for the branded products in our sample, **loyalty prices are generally the same price or cheaper than the cheapest price available for that product at other supermarkets.** This suggests that the loyalty priced products cited by Which? and in recent media coverage, which were the same or similar to the usual prices available at other supermarkets, are not indicative of a broader pattern where loyalty prices are typically not cheaper than other supermarkets' 'usual' prices.
- 8.10 However, as with findings reported elsewhere, we found several loyalty priced products in our sample which were more expensive than the cheapest price available at other supermarkets at that time. This suggests shoppers should not assume a loyalty price is the lowest price a product is available for and, when a loyalty price is not the lowest available, shoppers can potentially make a saving by buying that product at another supermarket.
- 8.11 Whilst our comparative price analysis demonstrates there can be value in shopping around, it also revealed a challenge for shoppers when comparing prices across supermarkets. We found that for several loyalty priced products in our sample, there were differences in the pack sizes that were available at different supermarkets. These differences were also sometimes quite small and potentially difficult to spot. We think this could make it difficult for shoppers to make accurate like-for-like comparisons on such products across supermarkets.
- 8.12 Furthermore, our analysis has highlighted many examples of the same branded products being on promotion simultaneously at different supermarkets. In Chapter 7 we described how supermarkets have frequent promotions on some products. The extent of promotional activity on the same product both at individual supermarkets and across different supermarkets can make it challenging for shoppers to know what a meaningful anchor (or usual) price is for certain products, particularly during a period of inflation when prices are increasing. This in turn makes it difficult for shoppers to assess whether:
- loyalty prices represent genuine savings; and
 - whether the price charged to non-members during a loyalty price promotion is the usual price.

- 8.13 We think the scale of promotional activity on certain items across supermarkets may be a factor that underpins some of the scepticism shoppers appear to have towards loyalty prices, and particularly whether non-loyalty prices are the usual prices.

Data collection methodology

- 8.14 Reviewing seven supermarket websites,²²⁷ we identified a sample of 429 branded products that were available online and which featured in a dual price loyalty promotion at one or more of Tesco, Sainsbury's, Morrisons and Co-op. This was a bigger range of loyalty priced products and a wider selection of supermarkets than similar exercises reported on by the media organisations referred to earlier in this chapter.
- 8.15 We did not include the two large discount supermarkets, Aldi and Lidl, in our analysis as neither supermarket retails online. In addition, neither Aldi nor Lidl stock a wide enough range of branded products to enable sufficient like-for-like comparisons with prices for the same products at the supermarkets we included in our analysis.
- 8.16 For a product to feature in our analysis, we determined that it had to be available in an identical quantity or pack size at Asda and at least two of Tesco, Sainsbury's, and Morrisons. These criteria ensured that each product in the analysis was not subject to a loyalty price in at least one supermarket (as Asda does not currently use loyalty pricing) and that products in our analysis were widely available. Each product in the sample was therefore being sold by at least three of the five largest UK supermarkets when we collected our data. Of the 429 products in the sample, 377 products (88%) were available at between five and seven of the supermarkets, while the remaining 52 products (12%) were sold in three or four supermarkets.
- 8.17 We collected price data on two different dates,²²⁸ three weeks apart, to obtain a broader spread of different products that were subject to loyalty prices as we knew that many loyalty prices are typically available for three weeks. To enable comparisons to be made on like-for-like products, we collected price information for branded rather than own-brand products. We also collected information on products from as many different product categories as possible, so that the analysis was not skewed towards one product type.

²²⁷ Asda, Co-op, Morrisons, Ocado, Sainsburys, Tesco and Waitrose

²²⁸ 26 June and 17 July 2024.

- 8.18 Once the product sample had been selected, we compared the loyalty price for each product to the price charged on that day at each of the six other supermarkets, if they also sold the product. We also noted whether the product was subject to a loyalty dual price promotion or another price reduction on a single unit of a product at the other supermarkets. We did not include bundle or multi-buy offers, whether or not these were exclusive to loyalty scheme members, as the nature of shoppers' purchases is different when buying multiple items.
- 8.19 Out of the seven supermarkets included in our sample, four used loyalty pricing (Co-op, Morrisons, Sainsbury's, and Tesco) and five had products on 'was/now' promotions (Asda, Co-op, Morrisons, Ocado, and Waitrose). We did not include any loyalty priced products from Waitrose in our sample as, on the dates we collected the price information, Waitrose had very few branded loyalty priced products. Having collected the price information for our sample, we subsequently noted that none of the 429 branded products were subject to a loyalty price at Waitrose on the data collection dates.
- 8.20 A detailed breakdown of the number of products within our sample sold by each supermarket, along with the type of promotions offered, is shown in Table 8.1.²²⁹

Table 8.1 Breakdown of products offered by supermarket and promotion type

Supermarket name	Loyalty price promotion	Was/now promotion	Not on promotion	Total no of products
Asda	0	137	292	429
Co-op	46	26	117	170*
Morrisons	25	115	265	405
Ocado	0	130	234	364
Sainsbury's	245	0	156	401
Tesco	276	0	138	414
Waitrose	0	98	212	310

NB: *Co-op offered both loyalty and was/now promotions for 19 products, hence the total number of products does not correspond to the sum of the previous columns.

²²⁹ None of the numbers shown are necessarily representative of the numbers of products and promotional offers in any of the relevant supermarkets. The CMA's analysis is not of their product and promotional offerings. We explain our methodology only to set in context the comparative findings below between loyalty priced products and non-loyalty priced products across supermarkets as a group. Those findings do not assess whether any particular supermarket's loyalty (or non-loyalty) prices are the cheapest.

Findings from our analysis

8.21 In this section we summarise our analysis of the pricing data. Firstly, we make two general observations about the data as set out above, one about the prevalence of promotional pricing in our sample and the other about the amount of variation in non-promotional pricing. We then report on how often loyalty prices were the cheapest prices for the 429 products and consider more broadly how loyalty prices compare to other prices available in the market (both non-promotional prices and prices for was/now offers). Lastly, we set out how the non-loyalty prices in our sample compared to non-promotional prices. Further detail and charts on the analysis are contained in Appendix B of this report.

Prevalence of offers

8.22 We found the same products tended to be subject to promotions (either loyalty or was/now promotions) across multiple supermarkets concurrently. Of the 429 products in our sample, 154 products (36%) were sold on a loyalty promotion in at least one additional supermarket (beyond the initial loyalty promotion that led to their inclusion in the sample). Furthermore, 312 products (73%) were also being sold on a was/now promotion in at least one other supermarket. In total, 343 products (80%) were under some promotional activity in at least one other supermarket in addition to the loyalty promotion from the supermarket which led to their inclusion in our sample. Only 86 products (20%) were not subject to any promotional activity at another supermarket in addition to the loyalty promotion which led to their inclusion.

Variation in non-promotional prices

8.23 Another observation from the sample is that there was significant variation in non-promotional prices. Most products (396) were sold by more than one supermarket on a non-promotional basis, and for most of these (330 products) there was some level of price variation. Whilst the vast majority (83%) of non-promotional prices in our sample were up to 25% higher than the cheapest non-promotional price, there were also some very big price differences, exceeding 100% in a few cases. In other words, we saw a small number of examples where the same product sold in one supermarket at its 'usual' or non-promotional price was more than twice as expensive as the cheapest competitor's usual or non-promotional price. For example, Quorn chicken style pieces (300 grams) were priced at £1.25 by one supermarket and £2.70 by another on the same day. Similarly, Fox's party rings were sold at 65 pence in one supermarket and £1.80 in another. Neither of these were on any form of promotion.

8.24 Further details on this analysis can be found in section A of Appendix B.

Were loyalty prices the cheapest prices available?

8.25 For each of the products in the sample, we identified the lowest available price, whether that price was charged by one or multiple supermarkets, and whether that cheapest (or equal cheapest) price was (or included) a loyalty price. The results are summarised in Table 8.2 below.

Table 8.2 Breakdown of whether loyalty prices are the cheapest price

The number of products where a loyalty price is the cheapest or one of several prices that are the equal cheapest price	368	And that loyalty price is only available at one supermarket	154
		And that loyalty price is available at more than one supermarket	24
		And the product is also available at the same price on a was/now promotion at other supermarket(s)	128
		And the product is also available at the same price at other supermarket(s) where it is not on promotion	62
The number of products where the cheapest price is not a loyalty price	61	And instead the cheapest price is a 'was/now' promotional price	41
		And instead the cheapest or equal cheapest price is or includes a non-promotional price	20
Total number of products			429

8.26 For most of the products in the sample - 368 products, 86% - a loyalty price was the cheapest or equal cheapest. This is broken down as follows:

- For 154 products a loyalty price was the single cheapest price available and for 214 products a loyalty price was the equal cheapest price available across the retailers.
- For 178 products (41%), the cheapest price was exclusively a loyalty price (as opposed to any other promotional or non-promotional price). As well as the 154 products where the cheapest price was the loyalty price offered by a single supermarket, there were 24 products where multiple supermarkets offered the same cheapest price through a loyalty promotion.
- For 190 products (44%), the equal cheapest price included another promotional or non-promotional price as well as a loyalty price. Of these, a loyalty price was equal cheapest alongside a was/now promotional price for 128 products. Interestingly for 62 products, a loyalty price was equal cheapest alongside a non-promotional price.

- 8.27 However, for 61 products (14%), the cheapest price did not include a loyalty price. Of these, a was/now promotional price (offered either by a single supermarket or by multiple supermarkets) was the cheapest for 41 products. For 20 products a non-promotional price (offered by a single supermarket or multiple supermarkets) was cheapest or equal cheapest alongside a was/now promotional price.
- 8.28 We therefore established that at least one of the loyalty prices in our sample was frequently the cheapest or equal cheapest compared to the other prices available on that day. We then looked more broadly at the loyalty prices in our sample to assess how frequently they were above or below the lowest price and, where this was the case, the size of that difference.
- 8.29 For 55% of the products in the sample, the cheapest alternative to a loyalty price was a was/now promotional price, and for the remaining 45%, it was a non-promotional price. When comparing loyalty prices to was/now promotional prices, the differences in price tended to be smaller, as both are promotional prices.
- 8.30 Loyalty prices tend to be similar to was/now promotional prices (most falling in a range of between 10% lower and 10% higher), a pattern consistent with loyalty promotions typically offering a similar level of discount to other promotions.
- 8.31 Loyalty prices tended to be lower than non-promotional prices. While 35% of loyalty prices were the same as the cheapest alternative (when that alternative was a non-promotional price), the majority (52%) were cheaper, mostly between 11% and 26% cheaper, a pattern consistent with loyalty prices typically offering a discount relative to non-promotional prices.
- 8.32 Further details on this analysis can be found in section B of Appendix B.

Are non-loyalty prices typically higher than non-promotional prices?

- 8.33 We compared non-loyalty prices (i.e. prices paid by those without a loyalty card for a product on a loyalty promotion) to the cheapest non-promotional price available for that product, thereby excluding any promotional prices from our comparison.
- 8.34 Across the whole sample we found that 13% of non-loyalty prices during a loyalty price promotion were lower than the cheapest non-promotional price, 36% were equal to the cheapest non-promotional price and 51% were greater than the cheapest non-promotional price. Whilst just over half of all non-loyalty prices were greater than the cheapest non-promotional price, the distribution of these prices was very similar to the distribution of non-

promotional prices. In other words, this pattern is consistent with non-loyalty prices typically being similar to non-promotional prices.

8.35 Further details on this analysis can be found in section C of Appendix B.

How our analysis relates to the CMA's and other organisations' previous work in the groceries sector

8.36 Both our own recent work in the groceries sector and research undertaken by other organisations has highlighted the potential value to shoppers of comparing prices across several supermarkets. It has also revealed some of the complexity in retail pricing for shoppers in the groceries sector, which means that some widely held assumptions and typical behaviours of shoppers might not always lead them to purchase the best products for their needs.

8.37 We know from our consumer survey that most people fragment their grocery shop across multiple supermarkets, with shoppers on average regularly using three different supermarkets.²³⁰ This supports Mintel's finding that just 5% of grocery shoppers shop with a single grocery retailer in a typical month. Mintel's research indicated that, in 2023, 35% of people said they shop at two different grocery retailers and 24% shop at three different grocery retailers in a typical month, the two most common answers given.²³¹

8.38 Our consumer survey indicates that the majority of shoppers also have memberships of several different supermarket loyalty schemes, with the average number being three and a fifth of shoppers having five or more.²³² Research also indicates cost of living pressures have resulted in people shopping around more for their groceries.²³³ Our qualitative research on unit pricing, published in January 2024, revealed a key strategy used by those with the very lowest incomes was to purchase different items from different retailers to save money.²³⁴

²³⁰ Appendix A to this report: 'Consumer survey', paragraph A.22 and Figure A.5.

²³¹ 'Supermarkets – UK – 2023', Mintel Report, 31 December 2023.

²³² Appendix A to this report: 'Consumer survey', paragraph A.23 and Figure A.6.

²³³ For example, the Office for National Statistics' finding in November 2023 that 48% of adults were shopping around more due to cost-of-living pressures Public opinions and social trends, Great Britain: 1 to 12 November 2023, Office for National Statistics, 17 November 2023:

<https://www.ons.gov.uk/peoplepopulationandcommunity/wellbeing/bulletins/publicopinionsandsocialtrendsgreatbritain/1to12november2023>

²³⁴ Research and analysis: Summary of consumer research and unit pricing analysis, CMA, published 30 January 2024: <https://www.gov.uk/government/publications/unit-pricing-analysis-and-consumer-research/summary-of-consumer-research-and-unit-pricing-analysis>

- 8.39 Regular analysis of prices in the groceries sector, for example The Grocer 33,²³⁵ shows that whilst the overall price of a sample basket of goods at one supermarket may be significantly cheaper than at another, this does not mean all the products are cheaper at that supermarket. Supermarkets which are often perceived as being typically more expensive are also often found to be selling some products in the sample basket at the cheapest price across all those surveyed. Both the supermarkets found to be the cheapest overall and those which are selling individual products for the cheapest price have also been shown to change regularly over time. This underlines the value of people comparing the prices of products and fragmenting their grocery shop.
- 8.40 Our unit pricing review also showed that widely held assumptions about what products are cheapest on a per unit basis within a supermarket are not always correct. For example, in relation to pack sizes, we found that savings per unit from trading up a pack size were not always equal for each increase in pack size. Furthermore, a much larger saving could be made by buying the largest pack size for some products than for others. We even found some examples where larger pack sizes were more expensive on a unit pricing basis.
- 8.41 As we conducted this comparative pricing analysis, we noted a significant number of products were sold by different supermarkets in different pack sizes and several of these pack sizes were not available at all the other supermarkets from which we collected data. These differences in pack sizes may not be obvious to shoppers when comparing prices of branded products across supermarkets, particularly as they are sometimes relatively small and the packaging or labelling is very similar despite the differences in size.
- 8.42 This shows it can be difficult to make like-for-like price comparisons, even for branded products that appear on first sight identical across different supermarkets. Our 2024 unit pricing research findings report highlighted that shoppers do not typically use unit prices to compare across retailers. However, our comparative analysis here suggests there would be value in using unit prices for accurate comparisons of prices across supermarkets for some products.

²³⁵ [The Grocer 33: Mystery weekly shopping survey tracking a basket of goods from the 5 leading supermarkets.](#) This combination of a price comparison survey with a nationwide mystery shopping survey regularly reports the price of an equivalent basket of products at Asda, Morrisons, Sainsbury's, Tesco, and Waitrose, with occasional reporting of the same basket at one or more of Aldi, Amazon, Iceland, Lidl and Ocado.

Conclusions

- 8.43 We recognise that the findings of this comparative analysis are based on a relatively small number of products, at two points in time, and we know that prices at individual supermarkets change regularly. While it has been possible to make some evidence-based observations from the analysis, some caution is also needed when drawing wider conclusions. Nonetheless, it has provided several useful insights.
- 8.44 We generally found loyalty prices to be the cheapest or equal cheapest available price for a product. However, we also found a small but significant number of products where the loyalty price was not the cheapest available price.
- 8.45 Overall, the pattern of prices that we observed in our data was that loyalty prices were typically cheaper than non-promotional prices and non-loyalty prices were typically similar to non-promotional prices. This suggests that the examples highlighted in the media where this was not the case are unlikely to be part of a broader pattern.
- 8.46 We understand that people will not always have the time or mental energy to compare prices when grocery shopping, but our analysis shows it can pay to shop around. This could just involve looking at the price charged by different supermarkets where they regularly shop for the same products online before shopping. Our findings suggested that significant savings could be made, especially when purchasing expensive products, whether these are subject to a loyalty price at a shopper's regular supermarket or not.

9. Conclusions

- 9.1 We have conducted a rigorous investigation into supermarket loyalty pricing. We heard concerns from stakeholders and consumers that loyalty prices may not always be genuine or fair. In the context of continued cost of living pressures, it is vital that shoppers are confident that savings they see are genuine and can make informed choices. We have therefore focused our review on whether any aspect of loyalty pricing offered by some supermarkets could mislead shoppers
- 9.2 Our survey found that most shoppers (69%) think that loyalty pricing offers good savings for members. However, our survey confirmed that some shoppers are sceptical about loyalty price offers and 40% do not trust that the loyalty price charged to members during a loyalty promotion is a genuine saving on the usual price for that product. Furthermore, 55% of shoppers think the non-loyalty price is generally higher than the “usual” price. But most shoppers (76%) report that loyalty pricing has not changed where they shop over the past 12 months.
- 9.3 Our review has found that shoppers can be more confident about the loyalty promotions they are seeing. Our pricing analysis shows that **the overwhelming majority of the loyalty price promotions we reviewed offer genuine savings on the usual price of that product at that retailer.** In other words, from our analysis of around 50,000 products on a loyalty price promotion, there is very limited evidence to suggest that supermarkets may have been artificially increasing the non-loyalty price to make the loyalty price promotion appear misleadingly attractive. This means that shoppers without a loyalty scheme membership are generally paying the same price during the loyalty price promotion as they do in the weeks before and after loyalty price promotions. This should give shoppers confidence that they are not being treated unfairly.
- 9.4 We identified a very small number of potentially concerning loyalty price promotions. The promotions that are most likely to suggest that the ‘usual’ price may have been inflated accounted for just 0.6% of the 50,000 loyalty dual price promotions we looked at. It is our view the number of potentially concerning loyalty price promotions made up such a very small proportion of the overall number of offers that they do not represent a systemic problem or suggest supermarkets are trying to mislead shoppers.
- 9.5 **Supermarkets must, nonetheless, ensure they comply with the law.** We have therefore written to those supermarkets that use loyalty pricing to advise them to review their practices in line with our advice in Chapter 6 and, where necessary, take action to ensure **all** of their promotions comply with consumer

law including when alternating between loyalty promotions and other forms of promotions such as was/now promotions.

- 9.6 Our comparative price analysis indicates loyalty prices generally do offer shoppers savings when compared with the prices of the same product available at other supermarkets when they are not on promotion at the other grocery retailers. But this is not always the case, and we found several loyalty priced products which were significantly more expensive than the cheapest price available at other supermarkets at that time.
- 9.7 **So, while our review provides reassurance to shoppers that loyalty price promotions offer genuine savings on the usual price at that supermarket, that does not mean that loyalty prices are always the cheapest price available and there is value in shopping around.**
- 9.8 The extent of the promotional activity on some products that we have seen during our analysis both at individual supermarkets and across different supermarkets may make it harder for shoppers to have meaningful anchor prices. The scale of the promotional activity on certain items across supermarkets, particularly during a period of inflation, may be a factor that underpins some of the scepticism that shoppers appear to have towards loyalty prices.
- 9.9 While we did not find concerns under consumer law, we think some supermarkets could do more to help some shoppers access loyalty prices. We are calling on supermarkets to consider whether they could do more
- so that certain groups of shoppers, such as those under 18 or without a smartphone, are not prevented from joining their loyalty schemes and accessing the cheaper loyalty prices; or
 - to promote the ways some groups of customers, such as those without a fixed address, can access their loyalty scheme and in turn loyalty prices.
- 9.10 We also have not seen evidence of consumer law concerns in relation to supermarkets' collection and use of personal data. Supermarkets appear to comply with consumer law by informing customers about their use of personal data. While they are less transparent about the sale of anonymised and aggregated data to third parties, we consider, based on what we have observed, that their practices align with common market behaviours and are unlikely to fall foul of consumer law.
- 9.11 The publication of this report concludes the CMA's review of supermarkets' loyalty pricing. We are sharing our findings with CTSI as it may wish to

consider updating its guidance to include examples of loyalty price promotions.

Glossary

Term	Definition
Active Member	An Active Member of a supermarket loyalty scheme is a shopper who has used their loyalty scheme membership to make a purchase at the relevant supermarket in the recent past.
Consumer survey	The CMA's survey into shoppers' behaviours and attitudes associated with supermarkets' loyalty schemes, and loyalty pricing in particular – commissioned from and conducted by the National Centre for Social Research (NatGen).
Loyalty price	The price a shopper who <u>is</u> signed up to a retailer's loyalty scheme will pay for a product when it is on a Loyalty Price Promotion.
Non-Loyalty price	The price a shopper who <u>is not</u> signed up to a retailer's loyalty scheme, or members who forgot or were unable to swipe / scan their card, will pay for a product when it is on a Loyalty Price Promotion.
Loyalty Price Promotion	A price promotion which is only available to members of a retailer's loyalty scheme.
Loyalty Bundle Promotion	A Loyalty Price Promotion where there is a loyalty offer when members buy a certain number of different items together. This could be a combination of items from a range of different products. For example, 'buy any 2 packs of frozen vegetables for £2'.
Loyalty Dual Price Promotion	A Loyalty Price Promotion where retailers offer a single product for sale at two prices: a lower price exclusively available to their loyalty scheme members; and a higher price for shoppers who are not loyalty scheme members.
Loyalty Multibuy Promotion	A Loyalty Price Promotion where there is a loyalty offer available when members buy a certain number of the same item, such as 'buy 3 of item X for the price of 2'.
Non-promotional price	The selling price charged for a product when it is not subject to any promotion.

Usual Price	The selling price that all shoppers would pay if the product did not feature in any form of promotion.
Was/Now price promotion	A form of reference pricing where the selling price is compared to a price the retailer previously charged for the product.