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CMA market study on Digital Comparison Tools (DCTs)

We welcome the opportunity to comment on the CMA market study on DCTs. Over the past decade DCTs such as price comparison websites (PCWs) and other online tools have become an increasingly important chain in the consumer journey, influencing purchasing decisions. According to Consumer Futures research 56 per cent of people declared they had used a PCW in 2013, and 52 per cent switched or purchased directly through one.¹

In essential, regulated markets with complex pricing structures and many tariffs, they are seen by regulators and policy makers as a key tool in enabling choice, switching and thus driving competition. And yet, despite the strong commitment from regulators and policy makers to DCTs as a way for consumers to engage in markets, over the past years concerns have been raised over DCTs value for money, reliability and accuracy of the information, transparency about business models, liability exclusions or data protection practices. Also contrary to expectations DCTs are not necessarily producing the rates of switching required to significantly bring down prices and drive up quality, or engaging the so called disengaged and/or vulnerable consumer groups.

¹ Price comparison websites - consumer perceptions and experiences, Consumer Futures 2013.



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Therefore we welcome the CMA market study and hope it will deliver an in depth investigation of the DCTs market that will advise on effective remedies that will improve DCTs practices and increase consumer trust.

Theme 1: Consumers' perceptions, use and experience of DCTs

DCTs market themselves as consumer champions and many consumers trust that comparisons they provide are generated in an evenhanded way. Evidence suggests that consumers do not understand nuances of DTIs business models and commercial arrangements which may impact on the quality of information consumers rely upon and determine whether consumers end up with a better deal. For example, Consumer Futures research found that consumers have little understanding of DTIs market coverage, ranking criteria, pricing details, benchmarking for selection of suppliers or treatment of personal data.²

Another concerning issue is limited take up in DCTs services by disengaged and/or vulnerable consumers. Those consumer groups stand to gain most from switching particularly in regulated markets. Yet evidence suggests that vulnerable consumers are not confident enough to use DCTs to help them find a better deal.³

Therefore we believe it is important the study not only focuses on updating already publicly available evidence on consumer perceptions, use and experience of DCTs, but goes further and tests the most effective remedies to increase consumer transparency about DTIs business models which can be of material value to the transaction.

² Price comparison websites - consumer perceptions and experiences, Consumer Futures 2013.

³ Ibid, Consumer views of price comparison guides and tariff structures, Ofgem 2012.



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This is particularly crucial for the energy market since the CMA ruled to remove the whole market requirement provision from Ofgem's Confidence Code for energy comparison sites.⁴ This means consumers need to be made fully aware, that contrary to what they have been used to, Ofgem's accredited DCTs may no longer provide guarantees of full and impartial market coverage of energy tariffs.

In particular, we would be keen on looking at ways DCTs can increase transparency about market coverage, pricing details, whether ranking/benchmarking of products/service is influenced by commercial relations with suppliers, and treatment of personal data.

Theme 2: Impact of DCTs on competition between suppliers of the services they compare

Evidence indicates that consumers find DCTs as a useful tool which enable them to bargain for better deals with suppliers. However some research suggests limited impact of DCTs on the market competition in terms of the price reduction or improved quality of products offered by suppliers. For example, the mystery shopping survey of price comparison websites carried out by Consumer Focus found that only 21 per cent of investigated sites guaranteed savings in real terms if a switch or purchase took place through their site, rather than directly from the supplier.⁵ The lack of savings may not be necessarily down to DCTs practices, but could reflect the overall functioning of particular markets. For example, in markets where few competitive offers exist, few consumers will be incentivised to switch and even DCTs are unlikely to deliver a better deal.

⁴ Energy market investigation: Final report, CMA 2016.

⁵ Comparing comparison sites, Consumer Focus 2013.



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Therefore we suggest the study explores whether there are any barriers which prevent effective market competition, in particular issues such as access to suppliers' data on available products and tariffs, access to consumers' consumption data and/or other switching hurdles such as rollover contracts, complex/timely switching process etc.

Theme 3: Competition between DCTs

On the surface DCTs market appears highly competitive and consumers are faced with a choice of comparison tools with varied market segments and business models. However, it is also important to note that currently the DCTs market is dominated by a handful of players. For example, Consumer Futures research found that majority (85 per cent) of consumers who use PCWs go to one of the Big Four, and only 8 per cent use other sites,⁶ which include quality assured sites approved by regulators' accreditation schemes such as Ofgem's Confidence Code⁷ or Ofcom's Price Calculator⁸. Even fewer (less than 1 per cent) are aware of collective switching sites and next generation sites.

The recent CMA investigation into the motor car insurance market found parity agreements between PCWs and insurance companies which prevented the latter from making their products available more cheaply elsewhere.⁹

In the light of above, we support the CMA in investigating whether DCTs are competing fairly with each other to the benefit of consumers.

⁶ Price comparison websites - consumer perceptions and experiences, Consumer Futures 2013.

⁷ <https://www.ofgem.gov.uk/information-consumers/domestic-consumers/switching-your-energy-supplier/confidence-code>

⁸ <http://consumers.ofcom.org.uk/price-comparison/>

⁹ <https://www.gov.uk/government/news/cma-finalises-changes-for-car-insurance>



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Theme 4: The regulatory environment

We agree with the CMA that the regulatory landscape that governs the DCTs market is fairly complex. There is a number of applicable regulations and voluntary agreements in place which cut across different sectors. Also various regulators either have a direct oversight or interest in DCTs. These include regulators such as the CMA, the Financial Conduct Authority (FCA), Ofcom, Ofgem, the Office of the Rail Regulator (ORR), the Information Commissioner's Office (ICO), the Advertising Standards Authority (ASA) or the Civil Aviation Authority (CAA).

However, despite a common regulators' interest in DCTs we have not seen so far a more joined up approach to address some of the concerns with the DCTs market.

We are concerned that the lack of a unified regulatory approach to DCTs with specific rules, guidance and varied levels of consumer protection in areas such as information remedies and redress, may hinder compliance, improvements and growth of the DCTs market.

So we welcome the CMA's intention to map out regulatory approaches to DCTs across different sectors to check if there are any regulatory gaps which are detrimental to the market competition and/or consumer protection.

In parallel we also would like to establish evidence on the level of DCTs compliance with relevant consumer protection regulations including Consumer Protection from Unfair Trading Regulations, Distance Selling Regulations, Data Protection Regulations, the Advertising Standards Authority's code of conduct and so on. For example, in 2012 the CMA's predecessor the Office of Fair Trading carried out a web sweep of price comparison websites which identified concerns over transparency of information, data privacy, exclusion of liability and complaints



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handling.¹⁰ We would recommend to carry out a similar sweep to check whether improvements to the identified problems have been addressed or whether they still persist.

Other issues

As part of its investigation, the CMA should explore the role of DCTs in public service markets. Current tools often have patchy, poor quality information and it is not clear that the indicators included are accurate measures of quality. Also key information, such as care homes fees, is not publicly available and there is also little standardisation of the information featured across different tools. Therefore we recommend the CMA explores the role of public service market intermediaries as part of its investigation into DCTs.

Yours sincerely

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<http://www.out-law.com/en/articles/2012/november/oft-urges-100-price-comparison-websites-to-address-issues-undermining-consumers-trust/>

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