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Dear Will,

Digital Comparison Tools market study: response to statement of scope

The LSB welcomes the CMA's market study into Digital Comparison Tools (DCTs). Legal services is listed as one of the sectors within scope, reflecting the CMA's ongoing market study into legal services in England and Wales. The interaction between the legal services and DCTs market studies needs careful management so that each can take account of relevant insights from the other. In particular, we are keen to ensure that implementation of remedies in the legal services market study can take account of emerging conclusions from the DCTs market study.

DCTs are currently not widely used in legal services¹, although there are some indications this may change². The CMA's interim findings report³ for its ongoing legal services market study has identified the absence of DCTs as a barrier to comparison and search that is limiting competition. In this context, we anticipate the DCTs study will be useful in helping to identify any steps that regulatory bodies should take to enable sustainable market entry by DCTs. In doing so, we share the CMA's aim to maximise the benefits from DCTs while ensuring consumers are suitably protected.

Our principal focus to date has been on reducing barriers to the effective functioning of DCTs in legal services. Some of the DCTs that are attempting to operate in the sector have submitted to the CMA that 'many legal service providers do not see transparency in pricing or consumer feedback as in their best interest'⁴. In addition to cultural factors and low consumer empowerment, the LSB's discussions with cross-

¹ Legal Services Consumer Panel, Tracker Survey 2016. This suggests only 1% of consumers use DCTs.

² For example, The Law Superstore, which is funded by external investment.

³ <https://assets.publishing.service.gov.uk/media/577f76daed915d622c0000ef/legal-services-market-study-interim-report.pdf>

⁴ See paragraph 1.18 of the CMA's interim report.

economy DCTs (and our own analysis) indicate that embedded features of the market are also factors in the limited development of DCTs in legal services. These features include a fragmented supplier base, lack of standardisation of fees and charging structures, lack of standardised services in some cases, and low technological sophistication in providers' websites.

The LSB, working alongside the Legal Services Consumer Panel, has taken specific steps to enable access for DCTs to the data they need in order to offer a compelling service. All the frontline regulators have separately made available basic registration data for the providers they regulate free of charge in a machine readable format. This progress is a good foundation for regulatory bodies to build on, by publishing wider regulatory information about providers to support informed consumer choice⁵. The CMA's final report on its legal services market study is likely to address this issue and we will give careful considerations to any relevant recommendations.

We recognise the importance to the sustainable growth of DCTs in the legal services market of consumers having sufficient and well-placed trust in them. We are not aware of consumer protection concerns that require regulatory intervention⁶ in this sector, although issues may arise should DCTs become established over time⁷. It is important for the legal services market to learn lessons, if possible, from other sectors where DCTs are more established. This could help avoid some of the problems that have arisen in those sectors. More generally, we will wish to consider the CMA's conclusions on the range of regulatory tools that could be applied to deliver proportionate consumer protection.

The CMA has identified comprehensive market coverage as one area of concern. Legal services differs to the other markets in focus by having a fragmented supplier base that consists of thousands of businesses operating in a range of sub-segments. It would be helpful if the CMA considered how competition and consumer protection issues in relation to market coverage might differ depending on the market structure.

Finally, we understand why the CMA has decided to exclude customer review sites from the market study given its previous recent work in this area. Nonetheless, such websites are particularly important in legal services as survey evidence⁸ suggests

⁵ In February 2016, the Legal Services Consumer Panel published [advice](#) in response to a commission from the LSB on information regulators should collect and publish to inform consumer choice. The LSB [responded](#) to the Panel's advice in May 2016.

⁶ The LSB does not have regulatory responsibilities in relation to DCTs.

⁷ In February 2012, the Legal Services Consumer Panel published a [report](#) on comparison websites operating in the sector at the time, which identified some issues relating to transparency and use of personal information. The Panel published a set of good practice standards for DCTs alongside its report. DCTs are able to self-assess themselves against the standards and state that they adhere to them.

⁸ The Legal Services Consumer Panel's [Tracker Survey](#) asks respondents to state which of a range of factors was very or fairly important when choosing their provider. The results vary depending on the legal service, but across the market the three top factors were reputation (75%), price (69%) and specialist expertise (68%).

that reputation and expertise are as important as price (and sometimes more so) as factors which determine consumers' choice of provider. Indeed, it is likely that DCTs combining quality and price information will emerge in legal services to reflect these consumer preferences. Therefore, it would be helpful if the CMA could bring together its conclusions (ie on DCTs and review sites) so the overall conclusions make sense and recognise the interaction between these two types of services.

We would, of course, be happy to meet with the CMA's team, if that would be helpful. Please contact Callum Armstrong in my team, in the first instance, to arrange this (email callum.armstrong@legalservicesboard.org.uk).

Yours sincerely

Neil Buckley
Chief Executive