



## **SKY'S RESPONSE TO THE CMA'S MARKET STUDY OF DIGITAL COMPARISON TOOLS - STATEMENT OF SCOPE**

### **Introduction**

We understand from the CMA's Statement of Scope that the CMA has included broadband in the scope of the market study because it believes that this is a sector in which it can add value. In particular, the CMA considers that the broadband sector shares characteristics with the energy sector (in relation to which the CMA has previously identified concerns), that search costs may be high, and that there are significant potential consumer gains from switching. However, as set out below, Sky considers that the broadband sector does not exhibit the characteristics which would warrant its inclusion in the CMA's market study.

First, UK consumers today benefit from vibrant retail competition in fixed broadband, particularly in ADSL, for fundamental reasons unrelated to the existence of DCTs. Historically, new entrants have been enabled to invest in their own infrastructure in order to deliver ADSL broadband services to their customers. As a result of vibrant retail competition to date, UK consumers are served by four major retailers of fixed line communications services (BT, Virgin Media, Sky and TalkTalk), each of which currently provides pay TV, fixed line telephony and fixed broadband services. Both BT and Sky also provide services under alternative brands (PlusNet and NOW TV). Vodafone is also increasingly active as a provider of fixed line telecommunications services, in addition to its large mobile telephony business.

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Second, there are good levels of switching in the sector and consumers find it easy to do so.

Third, the broadband sector differs from the other sectors included in the CMA's market study in relation to a number of elements highlighted by the CMA. The annual household expenditure associated with broadband is lower compared to energy and flight travel. Broadband packages are not characterised by high product and pricing complexity, unlike, for example, the energy

sector. This low complexity means that broadband packages are readily sold online, including through Digital Comparison Tools (“DCTs”)<sup>1</sup> and Sky does not believe that search costs are high.

Therefore, while DCTs play a role in facilitating competition by providing an additional route-to-market for broadband players, they are not a fundamental driver of competition in the sector. In any event, in Sky’s experience DCTs already work well for the sale of broadband products.

That said, as requested by the CMA, we set out below comments on some of the “themes and key questions” identified in the CMA’s Statement of Scope on which Sky considers that it is able to comment meaningfully, based on its own experience of distributing broadband products via DCTs.<sup>2</sup> Sky notes that these comments are based on the reasonable enquiries which it has been possible to carry out within the time available. If Sky identifies any additional information which Sky considers relevant in relation to its arrangements with DCTs, such additional information will be provided to the CMA as part of Sky’s responses to the CMA’s request for information of 29 September 2016.

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

### **SOS question 5.      What factors influence suppliers’ use and choice of DCTs, and why?**

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- [ ]
- [ ]

Customers may prefer to use these sites as an efficient way of discovering offers from a number of providers simultaneously, as opposed to visiting the website of each individual supplier separately. DCTs may also provide consumers with the opportunity to discover broadband providers of which they may not otherwise have been aware. In addition, they make it easier for consumers to compare the different features of each potential product offering (either by displaying the different offers in a table format or by providing a more discursive comparison of the various offers currently available).

[ ]. Sky has a presence on all major DCTs [ ]

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<sup>1</sup> Defined in the Statement of Scope as “Web-based, app-based or other digital intermediary services used by consumers to compare and/or switch between a range of products or services from a range of businesses.”

<sup>2</sup> Sky has not provided comments in relation to the the following themes and key questions: questions 1-4 (Consumers’ perceptions, use and experience of DCTs); and question 16, as it is not well-placed to comment on these themes.

**SOS question 6. To what extent do DCTs make it easier for suppliers to enter the market, attract more consumers and engage more effectively with them?**

Sky considers that DCTs can play a role in facilitating new entry into the supply of broadband services. [ ] In particular, some of the most successful DCTs in the UK have invested significantly in the marketing and advertising of their brands and services in order to attract significant traffic to their sites and/or apps. The result that the offerings of providers who list their products on these sites/apps are visible to significantly more potential customers than might otherwise be the case.

Further, Sky understands that although some DCTs sell prominent advertising space on their sites/apps, the ranking of different broadband offerings on DCTs is predominantly “organic” – i.e. it is based on the features of the product offerings listed, such as price, speed and (in the case of e.g. uSwitch) user reviews. This means that a new entrant whose offering is more attractive from an end-customer perspective should be able to secure more prominent placing within a DCT’s ranking table than more established providers whose offerings are less attractive or lower quality, even though new entrants may not be able to spend significant amounts on marketing and/or advertising themselves.

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**SOS question 7. How have DCTs affected competition between suppliers? What impact has this had on the price, quality and range of products offered by suppliers?**

As explained in the introduction to this response, Sky considers that competition in fixed broadband, and particularly in ADSL, is vigorous for a number of reasons unrelated to the role of DCTs. [ ] Sky is therefore of the view that the overall impact of the DCTs on price competition between suppliers is therefore relatively limited.

However, DCTs do play a role in facilitating competition by providing an additional route-to-market for broadband players. In particular, suppliers are aware that if their offers are more expensive than those of their rivals, they will generally be displayed less prominently by DCTs than the cheaper offers provided by rivals. In particular, there is a risk that more expensive offers will be listed “below the fold” on the DCTs (i.e. they will not be visible unless users scroll or click to view offers further down the page), thereby making them less visible and less likely to generate clicks and acquisitions (i.e. purchases). This is particularly the case because a number of DCTs default to sorting offerings based on price, with the lowest priced offers being displayed most prominently at the top of a search results page

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<sup>3</sup> [x]

(although users generally have the option to change the ranking so that it is based on other product features such as speed). [ ]

With regard to quality, although Sky is aware that user reviews are built into the ranking algorithm of uSwitch, Sky does not consider that DCTs have had a material impact on Sky's significant efforts to ensure that its broadband offerings are as high quality as possible, which are driven by its fundamental desire to win customers in a competitive market. We also note that the quality of Sky's broadband products depends to a certain extent on the underlying infrastructure, which is provided principally by BT Openreach.

Sky does not consider that DCTs have had an impact on the range of broadband products which Sky offers.

**SOS question 8.      What are the barriers, if any, to DCTs increasing competition between suppliers; and how can these be overcome?**

[ ] we note that the current practice of the DCTs is generally that the majority of product offerings listed on their sites/apps are ranked based on objective criteria (i.e. product characteristics). Although it is still possible for suppliers to bid for certain advertising space on these DCTs, such listings are now clearly labelled as paid advertisements in order to make users aware that their prominent placement may not be a reflection solely of their "attractiveness".

**SOS question 9.      In what ways, if any, have DCTs changed suppliers' approach to consumers - for instance in terms of whether they treat consumers who use DCTs differently to those who do not?**

Sky does not consider that DCTs have changed its approach to consumers. [ ]

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Theme 3: Competition between DCTs

**SOS question 10.      In what ways do DCTs compete with each other - for instance in terms of coverage, the savings consumers can make, the services they provide, their ease of use, transparency and how they protect consumers' data?**

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[ ] DCTs appear to compete with each other in a number of ways. For example:

- **Ad/marketing spend to build brand recognition.** Some DCTs have invested what Sky assumes to be very significant amounts in the advertising/promotion of their brands so as to attract as many users as possible. For example, CompareTheMarket, and GoCompare have run high profile advertising campaigns in recent years in order to significantly increase public awareness of their brands.
- **Bidding on search terms.** Sky understands that some DCTs compete in relation to certain search terms. For example, they may each bid on certain search terms in Google's AdWords advertising platform. Sky notes that the most prominent paid result of a search for "broadband offers UK" on [www.google.co.uk](http://www.google.co.uk) (i.e. the link which appears at the top of the results page) is a link to uSwitch's website.<sup>5</sup>
- **Differentiated services.** Some DCTs have sought to differentiate their sites/apps from those of their competitors. For example, [ ] MSE has adopted a distinctive discursive approach fronted by Martin Lewis. Further, while some DCTs have diversified to provide comparison services relating to a broad range of product sectors, others have adopted a more specialised model. For example, BroadbandChoices focuses only on telecommunications products [ ]

**SOS question 11.      What factors influence how effectively DCTs can compete - for example, whether they can secure the necessary consumer data, supplier information or other data?**

In relation to the supply of broadband products, Sky understands that the most significant factor in the ability of DCTs to compete with each other is their ability to invest in the advertising and marketing of their brands and services (although Sky does not have insight into the business of operating a DCT).

Sky does not believe that access to consumer data is a significant factor in the ability of DCTs to compete in relation to broadband. We do not believe that many DCTs collect significant amounts of consumer data in relation to consumers seeking broadband services (although some DCTs do ask users to provide their post code in order to check network coverage at the user's address). The same may not be true in other product sectors. For example, it may be the case that data is a more significant input for DCTs providing services in relation to products with more complex charging systems such as energy products. For those products, detailed information such as that relating to users' previous consumption habits may be needed in order to identify the most appropriate offering for a particular customer. In contrast, the prices which customers pay for

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<sup>4</sup> According to [MSE's website](#), it has approximately 15 million monthly users.

<sup>5</sup> As at 24 October 2016.

broadband are not usually based on actual usage[ ] and pricing structures are therefore much simpler.

**SOS question 12. If there are barriers to competition between DCTs, how significant are these and how can they be overcome?**

As explained above, Sky understands that the most significant factor determining how effectively DCTs compete is their ability to invest in advertising and marketing. Sky therefore expects that a lack of access to sufficient advertising/marketing spend could be a significant barrier to a particular DCT's ability to compete effectively against its rivals.

Theme 4: The regulatory environment

**SOS question 13. Are there any areas of regulation or self-regulation applying to DCTs that lack clarity, certainty, consistency, or enforcement?**

Sky supports the self-regulatory framework provided by the Advertising Standards Authority ("ASA") as an effective means of ensuring clarity, certainty and consistency in how such DCTs are marketed and also the information presented on them. The UK Advertising Codes apply to DCT websites in respect of a DCT provider's own marketing claims and the 'paid for' listings that appear on its services. Sky is aware that the ASA has also provided specific guidance<sup>6</sup> to consumers with top tips on how to make better use of price comparison sites and on occasion used its powers of enforcement to uphold complaints made about the presentation of marketing claims used in connection with DCTs.

The self-regulatory framework provided by the UK Advertising Codes provides an effective means of evolving rules and guidance to reflect the changing needs of the broadband sector (and other sectors in which Sky operates). By seeking appropriate input from industry, it is able to quickly adapt to technological and policy changes. This results in clarity for businesses and a high degree of consumer protection. The recent policy review on the presentation of broadband and landline pricing is an example of this.

**SOS question 14. Do there appear to be any areas where DCTs may not be meeting competition or consumer protection requirements?**

Sky is not aware of any areas where DCTs are not meeting consumer protection requirements. [ ]

**SOS question 15. Do any aspects of regulatory approaches to DCTs need to change and, if so, why?**

Sky supports the existing framework for regulating DCTs for the reasons set out in our responses to questions 14 and 15 [ ]

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<sup>6</sup> Accessible [here](#).

