

Consultation Response

Which? response to the CMA's Statement of Scope for its market study on Digital Comparison Tools (DCTs)

Focusing on outcomes for consumers is key

Which? is the largest consumer organisation in the UK with more than 1.5 million members and supporters. We operate as an independent, a-political, social enterprise working for all consumers and funded solely by our commercial ventures. We receive no government money, public donations, or other fundraising income. Which?'s mission is to make individuals as powerful as the organisations they have to deal with in their daily lives, by empowering them to make informed decisions and by campaigning to make people's lives fairer, simpler and safer.

Introduction

We welcome the CMA's consultation on the scope of this market study, and the opportunity to comment at an early stage. The comments in this response focus on issues related to the scope of the study and highlight a number of points that the CMA should consider. While these may be addressed within the CMA's four themes, in many cases they raise broader underlying issues that could affect how a range of different matters within each of the four themes might most usefully be approached.

In summary, it is important that the study focuses on how DCTs affect outcomes for all consumers, including those who do not use DCTs. As a result, the CMA should examine:

- when policy changes affect how DCTs operate, how might consumers – including less engaged consumers – be better protected and better served by the competitive processes that result;
- how DCTs might facilitate the segmentation of groups of consumers in ways that could dampen competition, at least in relation to some groups, and the ways in which DCTs can affect the intensity of competitive pressures between suppliers more generally; and
- how information concerning the way consumers are treated and quality of service is produced and provided, including the role of user generated information in relation to DCTs.

This response reflects both our policy position and our experience of running and managing a white label DCT, Which? Switch. Which? Switch is a whole of market energy comparison tool, allowing consumers to switch their energy supplier. It also provides extra information in the form of the Which? customer scores which include both a customer score and star ratings for metrics including customer service levels.

Which? is a consumer champion

We work to make things better for consumers. Our advice helps them make informed decisions. Our campaigns make people's lives fairer, simpler and safer. Our services and products put consumers' needs first to bring them better value.

The importance of focusing on outcomes for all consumers

We welcome the aims that the CMA has identified for this market study:

- to produce an authoritative assessment of the role of DCTs for use by all policy makers and other stakeholders;
- to identify how to maximise the benefits that DCTs can deliver; and
- to reduce barriers to the effective functioning of DCTs.

In order to deliver on these aims, it is important that the market study is firmly rooted in the consideration of how DCTs affect, and might affect, consumer outcomes. The scoping document appears - at least for the most part - to follow a familiar line of reasoning in this respect: *DCTs can offer significant benefits to consumers, by allowing them to make better, more informed choices*. While this is often true, it focuses attention on those consumers who use DCTs, and this is only one element of what needs to be considered.

The problems that the CMA found in its energy and banking inquiries centred not on those who have used DCTs to select their suppliers, but on those who have not. Often referred to as disengaged consumers, they have not switched services even when there is potential for relatively significant savings to be made:

- For energy, the CMA found that 70 per cent of domestic customers of the 6 largest energy firms were on an expensive 'default' standard variable tariff, and could potentially save over £300 by switching to a cheaper deal.
- For personal current accounts, the CMA found that heavy overdraft users could potentially save substantial amounts by switching to a cheaper alternative, but that such consumers were significantly less likely to switch than consumers on average.

Both inquiries made much of changes aimed at enabling more consumers to take advantage of the cheaper deals that are available, having identified problems of weak consumer response. However, this type of approach can tend to treat consumers as though their behaviour is the source of the relevant problems: consumers are not doing enough and need to be more engaged. It can tend to imply that for consumers to do better, they will need to engage, as it is only through such engagement that better deals will be secured. On this type of approach, DCTs are important because they facilitate such engagement and their effective operation can make it more likely that more consumers will secure better deals.

However, it is a standard feature of markets that the actions of more engaged consumers can bring about a benefit on those who are less engaged, by affecting the profitability of price changes by firms (e.g. increasing prices may result in a significant loss of sales even if it has no material effect on the decisions of less sensitive consumers). That is, consumers can often secure a reasonable deal even in the absence of significant personal engagement, because they are protected by the competitive pressures driven, in part, from the more active engagement of others.

A key question in relation to DCTs is whether the extent and/or form of their usage has, or might, materially affect the ways in which competitive processes operate, and in doing so affect how less engaged consumers fare. In terms of potential policy options: the CMA should think about how consumers might – including less engaged consumers - be better protected and better served by competitive processes as a result of policy changes that can affect how DCTs operate.

DCTs and the segmentation of consumers

It will be important for the market study to provide careful consideration of the ways in which DCTs can relate to the segmentation of consumers, in terms of their likely responsiveness to price and/or quality changes. For example, key questions should include: Under what circumstances might DCTs be expected to make it easier for suppliers to segment consumers, and to differentiate their commercial approach accordingly? When might such practices be likely to be (most) harmful? Where harmful, how might such tendencies be off-set or countered?

Developments that involve more extensive data sharing by consumers may be highly relevant to consider in this context. Such developments may allow harder lines to be drawn between those consumers who are and who are not willing to share their data, and this may affect the intensity of competitive pressures in particular in the 'non-sharing' group. Increased levels of data provision may also raise questions of transparency and ease of comparison if price offers become more bespoke and personalised, and comparisons more difficult.

DCTs and the intensity of competitive pressures more generally

Consideration should also be given to the different ways in which DCTs can affect the intensity of competitive pressures between suppliers more generally, and the circumstances under which different consumer outcomes might be expected to arise. While DCTs can clearly increase competition between suppliers under some circumstances, they can also potentially result in competitive pressures being dampened.

The CMA should include consideration of automatic switching businesses as part of the market study. There are concerns that more rapid and automated consumer switching mechanisms might make it more straightforward for incumbent suppliers to deter entry and collude tacitly, if those mechanisms facilitate more rapid and effective retention activity in response to observed low price offers (e.g. if the incumbent had an incentive to offer a low price response that resulted in automatic switch back).

In practice, the ways in which DCTs affect competition and consumer outcomes are likely to depend on a range of factors. Some of the sectors that are being examined within the market study involve discrete purchases (e.g. an airline fare or hotel booking) whereas others involve the purchase of services that are needed by consumers on an ongoing basis (such as energy supply, or broadband). As a result, competitive conditions in the underlying supply markets differ significantly across the sectors being considered.

DCTs and assessment of quality

Transparency of information and provision of information is one area the CMA could consider and where changes could deliver significant improvements in consumer outcomes. For DCTs to provide an effective means of consumer choice, it is important that consumers have sufficient access to appropriate and accurate information on service quality. As noted in the scoping document, there is a risk that the use of DCTs can be associated with undue focus on the headline prices being offered, rather than on the value that consumers get from those propositions (and the hollowing out of services can result with poor information provided to consumers and allow consumers to make poor choices as a result).

Consumers have become increasingly familiar with platforms that feature consumer feedback on products or services. These systems enable them to make decisions having first taken into account the experiences of other consumers. Most major online marketplaces and sales channels now feature customer reviews and feedback rankings to inform purchasing decisions. There are some studies that indicate consumers are more likely to trust, and act on, positive and negative consumer reviews more than other forms of information, and the use of consumer reviews can also have a powerful reputational incentive for firms. The role of user generated information would be a useful area for the CMA to explore in depth.

The role of information on supplier performance and service characteristics will also be important to consider. Which?'s research found that it was not just price that was a key driver to helping consumers make a decision around which energy firm to switch to. Another key driver was how they would be treated identified through customer service scores and views.

Consumers can find it hard to find the right information that they can use to compare performance. There are often coordination failures associated with the production and presentation of information in comparable and consistent ways. Firms often have little incentive to provide information in a way that consumers can compare their supplier against others. Where information on service quality is required (e.g. by a regulator), it may not be of a kind that of sufficient interest to consumers, or in a form that has been readily incorporated into DCT service provision. Consumer testing would be used in this instance to identify what kinds of service quality information would make most difference when DCTs are being used.

Which? Switch provides a rating service of energy companies, with the framework for rating services approved by Ofgem. This information provides consumers with an extra layer of information on the services and quality of service that energy firms provide consumers.

DCTs and fair treatment of consumers

When choosing a service supplier consumers may also question how they are likely to be treated in the future by that supplier. To what extent can they expect to be treated in ways they would consider fair?

There can be a number of different dimensions to this. In part it can capture issues of service quality of the kind discussed above: for example, how a consumer is likely to be treated if there is a problem with the service, or a billing problem. It can also relate to how a consumer is likely to be treated if their requirements change or how the company might help them if they become vulnerable or their circumstances change. A supplier's approach to payment problems would be an example of this kind of issue.

Another major issue here relates to the potential for future price changes. For example, a consumer may show little interest in a lower price offer because they expect it to be associated with a higher price being charged at some point in the future. They may therefore have doubts over whether they will end up better off. This is often known as a 'bargain then rip off'. Expectations concerning bargain then rip-off pricing can deter engagement if consumers believe that they are likely to be treated unfairly at some future point when they have become less engaged again.

Consumer understanding of the fairness of pricing practices would therefore merit careful attention. The CMA's own findings in relation to the level of Standard Variable Tariffs in the energy sector are supportive of this position. DCTs need to be clear on the overall savings that switchers will receive rather than assume the "do nothing" position that often inflates



savings. This again raises the importance of being transparent with consumers about the actual savings available. At present, Which? Switch is looking to make a change in its services, so that consumers are clearer on the overall savings from the position they switch from.

Overall, there are questions raised over whether consumers may benefit from the development of more effective ranking mechanisms that capture these kind of fairness considerations (such that the price offer presented on a DCT would be considered alongside information on the effective future risk of different types of unwanted behaviour emerging). Particular difficulties can arise though where unfair practices become embedded as a form of industry norm, and businesses face weak incentives to move away from this norm. The application and level of unauthorised overdraft charges, and unpaid item charges, have these characteristics. In such circumstances more significant regulatory intervention in the underlying market can be necessary in order to shift practice in the sector away from a norm that harms consumers, and allow DCTs to subsequently play a more effective role.

For more information,
Which?, 2 Marylebone Road, London NW1 4DF

November 2016