

PAGE 3: Your details

Q1: Title (e.g. Mr, Mrs, Ms, Dr, etc)	Mr
Q2: Forename	J K
Q3: Surname	Malinowski
Q4: Email	
Q5: What is your role / profession?	
Founder, TheEnergyShop.com	
Q6: Are you representing yourself or an organisation?	An organisation

PAGE 4: Publishing your details

Q7: If you are representing yourself rather than an organisation would you be content for us to include your name when we publish your response?	<i>Respondent skipped this question</i>
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PAGE 5: Your organisation

Q8: What is the organisation's name?	
Energy Services Online Limited trading as TheEnergyShop.com	
Q9: Please could you briefly explain the role of your organisation, including the sectors in which it operates or has most interest?	
Domestic energy price comparison and switching in the UK	

PAGE 6: Theme 1: Consumers' perceptions, use and experience of DCTs

Q10: 1. When and why do consumers use DCTs? To what extent do they trust them?	<i>Respondent skipped this question</i>
Q11: 2. How do consumers choose which and how many DCTs to use?	<i>Respondent skipped this question</i>

Q12: 3. What are consumers' expectations of DCTs - for instance in terms of market coverage and the relationships between DCTs and the suppliers they list?

Respondent skipped this question

Q13: 4. What are consumers' experiences of using DCTs? Do they benefit from using them and, if so, how? What works well and what could be improved?

In energy, regulatory interference in dictating to PCWs how energy comparison should be undertaken has been a disaster for consumer confidence. Ofgem's requirement to force PCWs to calculate savings based on the flawed Personal Projection methodology has led to PCWs routinely quoting savings from switching that are exaggerated by £100's a year. This not only undermines confidence in PCWs (and regulators) but crucially leads to bad outcomes for consumers that, in many cases, will lead to consumers losing out financially.

PAGE 7: Theme 2: Impact of DCTs on competition between suppliers of the services they compare

Q14: 5. What factors influence suppliers' use and choice of DCTs and why?

Respondent skipped this question

Q15: 6. To what extent do DCTs make it easier for suppliers to enter the market, attract more consumers and engage more effectively with them?

DCTs operating on a pay per acquisition model offer suppliers the ability to pay a small fee for each customers only after the customer has been acquired and usually after several direct debit payments have been taken from the customer. Not only does this reduce the marketing barrier to entry for new suppliers customers to virtually zero, it is also, in energy, a cash flow positive activity for the supplier. One would have thought it could not get better than this. However in energy Ofgem seems to believe that even this is not good enough and that PCWs should operate as public services and offer advertising and customer leads to energy suppliers for free. PCWs that cannot monetise their traffic will ultimately die and the smaller single market PCWs are particularly exposed to this.

Q16: 7. How have DCTs affected competition between suppliers? What impact has this had on the price, quality and range of products offered by suppliers?

Respondent skipped this question

Q17: 8. What are the barriers, if any, to DCTs increasing competition between suppliers, and how can these be overcome?

Respondent skipped this question

Q18: 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?

Respondent skipped this question

PAGE 8: Theme 3: Competition between DCTs

Q19: 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?

Respondent skipped this question

Q20: 11. What factors influence how effectively DCTs can compete - for example, whether they can secure the necessary consumer data, supplier information or other data?

Commission rates paid to PCWs have a significant impact on the ability of any given PCW to compete. In energy the CMA found that commission rates varied from £15 to £35 per fuel with the larger sites earning the highest fees. This creates a huge barrier to competition. With much lower commission rates, smaller PCWs cannot afford to compete on PPC (Adwords), or for partnership deals (where the deals are typically based on a commission revenue share). Smaller PCWs are therefore effectively locked out of the market. In energy this has led to a 3 firm concentration ratio of 85% and growing. In addition to this, some of the larger sites bid up the cost of the branded keywords of the smaller PCWs to unnecessarily high levels in what appears to us to be a deliberate and systematic attempt to force the smaller PCWs out of business. We believe that this is an abuse of market power and should be investigated. Smaller PCWs are further constrained by a brutal regulatory environment that imposes disproportionately significant costs (due to WOM comparisons) onto the smaller PCWs (which have lower scale and therefore struggle to absorb these costs).

Q21: 12. If there are barriers to competition between DCTs, how significant are these and how can they be overcome?

In energy

1. A centralised switching platform where all suppliers pay broadly equivalent commission rates to all PCWs. All PCWs get access to those deals through the platform.
2. Investigation into, and appropriate action taken against, PCWs that abuse their market power.
3. An order on Ofgem to stop interfering with the normal competitive functioning of markets. Ofgem's policies invariably end up forcing one company to subsidise another. For example, Ofgem forces PCWs to subsidise energy suppliers by imposing an obligation on PCWs to offer free advertising at the suppliers request..

PAGE 9: Theme 4: The regulatory environment

Q22: 13. Are there any areas of regulation or self-regulation applying to DCTs that lack clarity, certainty, consistency, or enforcement?

Yes. Ofgem's frankly brutal regulation of "accredited" domestic energy PCWs, which the CMA found to be "unduly stringent" is totally inconsistent with regulation in every other consumer market and is also inconsistent with Ofgem's regulation of other energy sectors. For example, Ofgem's proposed regulation of non-domestic TPIs (which the CMA found "did not go far enough") are still proposals after 4 years of consultation, whereas Ofgem's proposed regulation of domestic collective switching schemes, which started before the last 2 consultations on domestic energy PCWs, is dead in the water, allowing this sector of the market to run wild. Furthermore, there is no regulation of telephone based PCWs. There is also no regulation of, for example, charities (Which?) and charities / public sector bodies (Citizen'sAdvice). []

After a 2 year CMA energy market investigation the CMA recommended to Ofgem that it drop the WOM requirement in the Confidence Code. While Ofgem initially committed to follow the CMA's recommendations it has now decided that it will not do so in respect of the WOM requirement (for domestic PCWs only). Where you have a regulator that chooses not to follow the recommendations of a 2 year long independent competition investigation, then the regulatory environment becomes unpredictable and the sector un-investable.

Ofgem has repeatedly shown itself to be biased and inconsistent in its regulation of domestic PCWs and should either remove itself from the regulation of PCWs, or be ordered to have the apparently "voluntary" Confidence Code accreditation scheme moved to a genuine independent self-regulatory organisation.

Q23: 14. Do there appear to be any areas where DCTs may not be meeting competition or consumer protection requirements?

Yes. The Ofgem Confidence Code requires PCWs to show the cost of bundled tariffs at the level of the cost of energy only, even whether the additional bundled products are not optional and costs £000's a year extra. As such PCWs are required to advertise tariffs at prices well below those at which the product is actually available to consumers.

Q24: 15. Do any aspects of regulatory approaches to DCTs need to change and, if so, why?

Firstly it is critical to establish the criteria on which a scheme can be determined to be "voluntary" or otherwise. Ofgem, for example, has repeatedly refused to consider evidence that the Confidence Code is a forced involuntary scheme. Secondly, the lawfulness of regulations which force one commercial organisation to subsidise another needs to be carefully considered and appropriately dealt with. It is not acceptable for a regulator to impose potentially unlawful requirements without proper independent scrutiny.

There must be total consistency of regulation across all market sectors.

There must be consistency of regulation within market sectors.

Regulators should have no role interfering in the minute details of how sites operate (such as dictating that savings are inflated by £000's to encourage switching).

If there are market rules then charities and public sector organisations need to be obligated to follow them.

Why? Because inconsistent regulatory frameworks distort competition and create perverse incentives. These can undermine and stifle investment in sectors that have real benefits for consumers, such as PCWs. On the flip side they create huge incentives for the entry of opportunistic, get rich quick, built to flip schemes that exist to take advantage of regulatory loopholes (no capital requirements, minimal licensing requirements, free advertising from PCWs, taking cash in advance of supply from consumers). Unsustainable competition, when it leads to supplier failure in a sector like energy supply will have devastating adverse effects on consumer confidence.

PAGE 10: Future developments, other comments and further contact

Q25: 16. Finally and in relation to all of the issues above, what likely developments over the next three years should we take into account and why?

Respondent skipped this question

Q26: Do you have any other comments you would like to add?

Respondent skipped this question

Q27: Would you be willing for us to contact you to discuss your response?

Yes