

Digital Comparison Tools Market Study:

Response form

1. Thank you for taking the time to respond to the questions in the Statement of Scope for our Market Study of Digital Comparison Tools (DCTs), published on our [website](#) on 29 September 2016.
2. Please download and save this form before completing it. Please submit your response by **5pm on Monday, 24 October 2016**, either by:
 - Email to: comparisontools@cma.gsi.gov.uk.
 - Or by post to: Digital Comparison Tools Market Study
Competition and Markets Authority
7th floor
Victoria House
37 Southampton Row
London WC1B 4AD
3. Please note:
 - You can choose which questions to respond to, but we ask all respondents to provide a small amount of background information at the start of this form. The boxes will 'expand' to accommodate long responses if required.
 - We are particularly keen to receive evidence in support of responses. If you are able to supply evidence please attach this with your response.
 - We intend to publish responses to our Statement of Scope in full. If you wish to submit information that you consider to be confidential, this should be indicated to us clearly and an explanation given as to why you consider it to be confidential.
 - The CMA may use the information you provide for the purposes of facilitating the exercise of any of its statutory functions. This may include the publication or disclosure of the information. Prior to publication or disclosure, in accordance with its statutory duties under Part 9 of the Enterprise Act 2002, the CMA will have regard to (among other considerations) the need to exclude, so far as is practicable, any information relating to the private affairs of an individual or any commercial information relating to a business which, if disclosed, would or might, in our opinion, significantly harm the individual's

interests or, as the case may be, the legitimate business interests of that business (confidential information). Further information about how the CMA will use information submitted during the Market Study can be found on our [website](#).

4. If you have any questions about our Market Study or this online form please contact the team at comparisontools@cma.gsi.gov.uk.

Your details

(Fields marked * are required)

Title*	Ms
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Forename	Carolyn
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Surname*	Jameson
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Email*	[✂]
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What is your role / profession*	Chief Legal Officer
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Are you representing yourself or an organisation?*	An organisation
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If you are representing yourself rather than an organisation would you be content for us to include your name when we publish your response?*	n/a
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If you are representing an organisation:

(a) What is the organisation's name?*	Skyscanner
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(b) Please could you briefly explain the role of your organisation, including the sectors in which it operates or has most interest?*
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Skyscanner is a UK-headquartered travel technology business which employs over 800 people globally across its 12 offices. It is one of the most recognised and utilised travel-focused DCTs in the world with over 60 million unique visitors per month.

We operate as an independent travel 'metasearch' service, a form of DCT which allows users to quickly and easily compare, via websites and mobile applications, the price and product details of thousands of different flights, hotels and car hire options being offered by airlines, hoteliers, online travel agents ("OTAs") and car hire providers throughout the world.

We are not a travel agent and do not sell any travel products or services to consumers. Instead, our services are designed to function as a shop-window of shop-windows, an unbiased platform that lets consumers filter and explore travel options that match their search criteria, whether general or specific.

When one of our users wishes to book a flight, hotel or rental car, we direct that user to the website of the relevant travel supplier to allow them to make a booking directly. In return for these referrals, we will often receive a small commission payment from the travel supplier (though this is not always the case). Aside from referral fees, our main revenue source is display advertising.

This is a fast moving market and our product is constantly evolving – for example, we currently have a tool for corporate travel in beta phase, that can also be used by consumers to organise group travel. We are also rolling out ‘facilitated booking’ with select partners, which allows consumers to make bookings on the Skyscanner site with partner branding, giving consumers a consistent but trusted experience from end to end.

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

We will analyse consumers’ awareness, understanding and perceptions of DCTs – for instance, how well consumers understand and/or trust DCTs, and what this means for whether they use them.

We also want to understand consumers’ behaviour and experiences with DCTs, including what consumers expect to get from DCTs compared with what they actually receive. We will also look at whether they use DCTs just to compare products and suppliers or also to switch; how many DCTs they use; how successfully they use them; and the benefits they derive from doing so. We will also want to understand what happens when something goes wrong and consumers’ expectations are not met (knowingly or otherwise). We also plan to understand whether increased use of DCTs results in excessive focus on price, to the exclusion of other factors and to the detriment of consumers’ overall decision-making.

1. When and why do consumers use DCTs? To what extent do they trust them?

Consumers use DCTs in a variety of ways. In the case of our platform, consumers will often use it when they want to quickly find out what flight, hotel or car hire options there are available for a specific trip without needing to visit and search the website or physical retail outlet of each individual airline, hotel, online travel agent (“OTA”) or car hire supplier. Consumers will also use our platform for travel inspiration and advanced planning purposes, to identify and compare possible destinations, trip durations, departure/arrival dates and times, and costs that are within their desired budget. Skyscanner not only saves the time of searching individual travel sites, we also add value by generating combined options from different travel providers, giving consumers the opportunity to take advantage of combinations that would not otherwise be presented to them had they searched on the website of a specific OTA or airline.

Though there are pros and cons to both models, metasearch services have the advantage over OTA DCTs of enabling consumers to search across multiple airlines *and* multiple OTAs (many of which will offer a different price to an airline or other OTA for the same flight) without needing to visit the individual website of every possible airline or OTA.

The advantages of choice and transparency which metasearch DCTs like us provide is particularly attractive to consumers in the flights sector because:

- leisure travellers are often flexible about dates and other parameters of travel, which immediately increases the complexity of comparison; not only do you need to visit the website of each different airline and OTA you wish to consider, you also need to run multiple searches on each website to understand how the options change when you alter those parameters;
- Flight pricing is particularly dynamic in nature, with availability and associated pricing being adjusted in real-time. As a result, the use of DCTs becomes even more critical for consumers who want to compare options; and
- prospective travellers can find travel options for a desired itinerary that would not be possible from searching an airline's website alone. Our own internal data, for example, shows that about 17% of the options that consumers have selected from our search results link to itineraries involving multiple airlines. It would be practically impossible for those consumers to search each individual airline website in order to identify the different flight options and create a bespoke itinerary.

The increasing popularity of DCTs amongst consumers in the flights sector is a strong indicator that they are a highly trusted platform and means of shopping in the online environment. [✂]

The increasing popularity of Skyscanner as a DCT is evidenced by our internal data, which shows that the number of unique monthly visitors to Skyscanner increased by 91% in the period 2012-13, 43% between 2013-14 and 34% between 2014-15.

2. How do consumers choose which and how many DCTs to use?

There are various factors which influence a consumer as to which DCT to use:

- trust – in the online world, where many of the mechanics behind a search take place 'under the hood' and in a way that is not directly visible to the consumer, trust is a critical factor. For example, we have observed consumers complaining in online forums that certain online comparison tools use cookies to remember what users have searched for previously and then exploit that information by increasing the sale price on a subsequent visit. A DCT which is trusted by users to operate in a fair and transparent way will be more likely to be selected by a consumer as their chosen DCT.
- transparency – closely linked to trust is the transparency factor. Transparency as to how a DCT operates and, in particular, how its search functionality works, where it obtains its data from and how it makes its money are important to establishing consumer confidence in a DCT. Where the business model of a DCT is opaque or unclear, users are likely to be concerned about the reliability of the service and what their data might be used for.
- coverage – for a comparison service to have value, it must provide as broad a range of products and services to compare as possible. All other things being equal, consumers will prefer to use the DCT which searches against more possible options than its competitors. This is why access to third party data is so critical to the effective functioning of a DCT and why, as highlighted in several of our responses below (see question 5, for example) we are

so concerned by the current trend in the travel sector of airlines seeking to curb DCTs' access to flight data and the lack of meaningful challenge to this (as yet) by any competition authorities.

- unbiased – consumers ideally want to use a DCT that returns search results purely according to the consumer's specific search criteria, and not in a biased way that favours or promotes certain products over others e.g. where a DCT gets paid to 'push' or 'promote' one given option over another (unless that promotion is clearly marked as such).
- price accuracy – also feeding into the trust factor is the fact that users will look to a DCT to provide accurate and reliable pricing information. This is the great challenge presented to DCTs given that they are typically reliant to a large extent on the accuracy of the data they receive from the ultimate suppliers of the products they allow their users to search against. Skyscanner has tried to address this via PQS which can highlight which allows consumers to provide feedback which affects the partner score where a partner subsequently adds charges which are not included in the headline price, or credit card fees.
- quality of service – aspects such as the quality, speed, ease of use, accessibility and look and feel of the search experience and user interface is important.
- word of mouth – users will select a DCT if they have read or heard positive feedback about it. In addition, there are a number online forums and services which review, compare, and promote discussion on the quality of websites and online services.

Consumers will use the minimum number of DCTs possible that enables them to feel satisfied that they have fully searched the available options in a marketplace.

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

In our view it is less the case that consumers have strong *expectations* about market coverage and the relationships between DCTs and the suppliers they list, but rather that they know what they would like to see in their ideal DCT (i.e. essentially a DCT which meets the criteria set out in our answer to question 2) and be able to clearly understand where in relation to those ideals any given DCT is sitting in reality.

It is for this reason that we regard transparency as being a key issue for DCTs at present and fully support the prominence which it has been given in the recently published '*Key Principles for Comparison Tools*' document created by the European Commission.

In order to ensure consumers are properly informed about any given DCT's position on key issues like market coverage and supplier relationships, it has been well-documented that there is a need for a consistent approach to transparency required across DCTs. This is particularly true respect to of the relationships between DCTs and the suppliers they list, and how DCTs generate revenue from those relationships.

For example, we are aware from feedback collected from our own users that there is a proportion of Skyscanner users who use our platform to determine which supplier they would like to book with, but then leave Skyscanner and re-run their search directly on that supplier's website in order

to complete the booking because they are operating under the misunderstanding that prices shown on Skyscanner will always be more expensive than on a supplier's own website. We believe that this is because these users are operating under the misapprehension that Skyscanner must have to add fees to the prices it advertises in order to make revenue. In reality, of course, this is completely untrue – the prices we show on our platform are exactly as they are provided to us by the ultimate suppliers and, in fact, our main source of revenue is cost per click or cost per acquisition referral payments. What we need to do as a business is make sure that we are communicating that point to our users as clearly and transparently as possible whilst avoiding 'information overload'. This is particularly in light of the significant shift to mobile web, meaning a rising percentage of users are searching for travel with limited screen 'real estate'.

The nature of DCTs, and the wide range of services and sectors they cover, add an additional layer of complexity in terms of consumer expectations. Many comparison tools, such as those operated by OTAs *will* contain additional fees or built-in commissions as a necessary component of that provider's business model. Consumers cannot be expected to have a nuanced understanding of the travel technology market, making transparency a necessary component of allowing consumers to effectively assess the different value propositions that different DCTs represent.

Transparency is also an issue with regard to market coverage. However, while we fully support the principle that DCTs should be required to be clear with consumers and never knowingly mislead them as to the scope of coverage. Exact suppliers fluctuate in real time on a market by market basis. By way of illustration, as at the date of this response, it is possible for our users to search against around one thousand different airline, hotel, OTA and car rental partners across our global platform.

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 light of the increasing numbers of consumers who are making use of DCTs (see our response to question 1), we believe it is clear that consumers are, overall, having a positive experience with DCTs in that they are clearly serving a valuable purpose.

Benefits

DCTs provide easy access to products and services in one convenient place and present more options to consumers than consulting individual suppliers would. This leads to a significant reduction in a consumer's search costs i.e. the time the consumer would have otherwise spent searching for such products and services from various different sources. For example, the UK Office of Fair Trading has previously found that 81% of online customers used a comparison site precisely because it was the quickest way to compare prices [Ref: *Office of Fair Trading (2010), 'Advertising of prices', December, paras 9.11–9.12.*]

DCTs also lead to greater transparency in connection with the availability and pricing of products and services, which is of significant benefit to consumers. A study in 2013, for example, found that having all the information organised in a similar way, side by side, benefits consumers in enabling them to 'make more structured comparisons and an informed choice' [Ref: *Consumer Futures (2013), 'Price Comparison Websites: Consumer Perceptions and Experiences', p. 35*]. This is particularly true in the case of metasearch DCTs operating in the travel sector, which give consumers the ability they would not otherwise have to create itineraries involving the combination of multiple airlines.

By allowing consumers to easily compare products and services offered by multiple suppliers, DCTs help promote competition between such suppliers and thereby stimulate a competitive reduction in prices and improvements in product quality. In the travel sector for example, it is the case that well-known airline brands will often offer flights tickets for sale at a higher price than relatively less well known OTAs, and that OTAs will also compete between each other on price – DCTs enable consumers to have visibility of these price differences and thereby encourage this kind of competition.

DCTs help consumers to become aware of less well known suppliers, as well as new entrants, that may not have the same brand recognition or marketing spend as established players. This reduces barriers to entry for new suppliers and also stimulates innovation from incumbent suppliers, potentially resulting in yet unknown benefits being brought to consumers. See our response to question 6 for further information on this advantage.

Areas for improvement

With regard to things that could be improved in respect of DCTs, we believe that the two key areas are the accuracy/transparency of prices and the coverage which DCTs allow consumers to search against.

As aggregators of third party content, DCTs are dependent on the accuracy of the data they receive from the third parties whose products and services they advertise. DCTs are therefore vulnerable to the actions of certain suppliers who may choose to mislead consumers over price in order to generate visits to their site. For example, in order to ensure they appear at the top of a DCT's search results, some suppliers will deliberately provide an artificially low lead-in price, which ultimately gets increased by way of hidden charges and supplementary services to a much higher total by the time the consumer has got to the booking completion page. Although this contravenes regulatory requirements in many jurisdictions, the enforcement of such requirements varies from country to country and is often inconsistently applied or else enforced against the wrong entity; for example, action may be taken against the DCT on the mistaken view that the DCT has some role in setting or validating the price of the product as opposed to being merely an independent shop-window displaying the price that has been set by the supplier.

In general, price transparency could do with being improved across most DCTs. However, that is something which is again made difficult for DCTs due to the fact that they are ultimately reliant on the data they receive from their suppliers. For example, if a DCT wants to transparently show a consumer the full and final price along with a breakdown of how that price is arrived at (e.g. for a flight: the cost of the seat, the tax, the baggage fee, the cabin class upgrade cost) it is reliant on receiving that data in full from the supplier. If the supplier is unable to, or does not wish to, provide that information the DCT's only choice is to either show the data as is or deny its users the opportunity to view that data at all.

Although at Skyscanner we actively monitor price accuracy and transparency and raise any issues with regards to our partners as soon as we spot them, the fact that we have approximately one thousand suppliers which can be searched against in real time presents us with genuine technical difficulties. For instance, a search for a round-trip to New York on any given date would easily generate 1,000 search results, meaning that is simply not practicable for us to identify all such issues in advance.

With regards to coverage, this area for improvement arises as a result of the trend we are observing of airlines restricting the ability of travel metasearch services like Skyscanner to display their flight tickets in search results in an unbiased way, such as alongside the same flight tickets being

offered for sale (at often cheaper prices) by the OTA suppliers they are competing with. As discussed elsewhere in our response, this trend is having the effect of gradually reducing the options that consumers are able to use DCTs to search against and thereby limiting competition.

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

A critical test of DCTs' impact is whether they are improving or hindering competition between suppliers. A major way of improving competition is increasing engagement through reducing search costs. We plan to understand this effect and whether anything may be hindering it.

We also want to explore the relationships between DCTs and suppliers and to know whether DCTs are having effects on supplier behaviour. For example, we want to explore the impact of DCTs on the range, quality and pricing of their services, and the extent to which this leads to better or worse outcomes for consumers. We also want to understand the extent to which DCTs facilitate supplier entry or expansion.

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

In general, the exact DCT chosen by a supplier will depend primarily on the DCT's popularity, reputation, user numbers, and the commercial deal that can be struck.

More specifically, the answer to this question will obviously vary depending on the sector, geographical marketplace and the business model of the supplier. In the flights sector for example, OTA suppliers are generally eager to use DCTs as an effective distribution channel that allows them to advertise the flights they are selling to a potentially much wider audience than they would otherwise be able to attract to their own website. This is especially the case for smaller OTAs that do not have marketing power and brand recognition of longer established, bigger and better known suppliers.

By contrast, over the last few years, and in particular since 2012, we have observed a growing number of airlines introducing policies which seek to either remove their data from DCTs completely or place extremely restrictive conditions around which DCTs can have access to the data and how they are entitled to use it. A number of airlines have, either alone or in conjunction with other airlines, introduced policies which attempt to restrict the access to flight information by metasearch DCTs like Skyscanner, including by:

- refusing to supply flight information to metasearch sites;
- continuing to provide flight information, but reducing or stopping commission payments;
- making access to flight information conditional on the metasearch service agree not to allow it to be compared against the same (often cheaper) flights being offered by OTAs; and
- prohibiting OTAs, and other third parties that hold flight information, from providing flight information to, and from receiving consumer referrals from, metasearch DCTs.

The reasons for this are varied, but we believe it arises principally to prevent their flights being compared unfavourably on price against OTAs who sell the same flight ticket cheaper than the airline sells it direct. Airlines are also concerned to drive all consumer traffic through the airline's own website and thereby 'own' the user experience from end-to-end and the opportunities for advertising and up-sell that that brings.

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 have a hugely positive impact in opening up the marketplace to more competition by way of new suppliers. As noted above in our response to Q5, one of the key attractions for an OTA in working with a DCT like Skyscanner is that it enables them to ensure their products and services are visible to a much wider audience than they would otherwise be able to attract to their own website. In many cases, a DCT may be the primary means by which a new entrant to the marketplace is able to attract the potential consumers it needs to be able to compete against larger more established suppliers.

This is especially the case for smaller suppliers, who benefit from the ability of DCTs to provide them with a low cost yet effective advertising platform that enables them to compete for consumers on the basis of product and price rather than marketing spend or brand recognition. Many of our smaller partners rely heavily on our platform to generate business, as they would not otherwise be able to achieve the traffic that Skyscanner drives for them.

For example, we were informed by one of our smaller OTA partners who had been instructed by a major airline to either stop advertising their flights on Skyscanner or else have their right to sell that airline's tickets blocked, that referrals from Skyscanner actually constituted approximately 80% of that OTA's consumers. The implication for the OTA in that case was that it was therefore forced to choose between cutting off the majority of its potential consumer traffic or materially degrading the quality of its inventory.

Unfortunately, the type of anti-competitive restrictions referred to above are becoming increasingly common in the travel sector and we see this as representing a real threat to the ability of new suppliers to enter the travel marketplace and all the advantages they can bring to consumers. This is particularly concerning in a sector such as ours which is increasingly controlled by a few large players.

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

DCTs have had a hugely positive impact on increasing competition between suppliers, improving consumer choice and driving down prices in the marketplace.

As noted in our responses to previous questions, the primary positive impact of DCTs has been in facilitating competition between suppliers and thereby helping to push down prices as well as increasing quality and any other factor that allows for differentiation between suppliers. For example, a survey commissioned by the European Commission found that comparison sites provide savings of an average of 7.8% on the online retail price across Europe. [Ref: Executive Agency for Health and Consumers (2011), 'Consumer Market Study on the Functioning of E-Commerce and Internet Marketing and Selling Techniques in the Retail of Goods', 9 September, p. 80.] In addition, a

2002 study in the life insurance industry found that prices for term life insurance had reduced by around 19 - 27% as a result of comparison site usage – a reduction which was not evidenced for whole life insurance which was not covered by comparison sites. [Brown, J.R. and Goolsbee A. (2002), 'Does the Internet Make Markets More Competitive? Evidence from the Life Insurance Industry', *Journal of Political Economy*, 110:3]

In the travel sector, we see this particularly in the context of flight price competition amongst OTAs and between OTAs and airlines. Many OTAs receive volume-related discounts when purchasing flight tickets, which enables them to offer lower prices than those offered by airlines direct or by other OTAs. In addition, many of the larger OTAs offer complementary products such as hotels and car hire with higher margins which also allows scope for offering more competitive pricing.

As noted above, however, it is not just on price that airlines and OTAs are competing. In addition to making significant improvements to the quality and ease of use of their websites, we have observed efforts by airlines to develop new and more innovative products to attract consumers, such as the guaranteed luggage delivery service being offered by American Airlines. The volume of ancillary revenue generated by airlines continues to increase at a significant rate year on year. [<https://skift.com/2015/11/10/airline-fee-revenue-expected-to-reach-nearly-60-billion-in-2015/>]

In addition to reducing prices, DCTs also have the benefit of enabling suppliers to advertise to consumers a broader range of products or services than the consumer might otherwise have known that that supplier could provide [Ref: *Consumer Futures (2013), 'Price Comparison Websites: Consumer Perceptions and Experiences'*, p. 35].

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

From the perspective of DCTs operating in the travel sector, there are two main barriers as we see it.

The first of these is the concerning trend we have been observing of airlines adopting policies which seek to restrict the ability of DCTs from accessing and/or using flight data (see our response to question 5 for further details), the result of which has been to reduce consumer choice and competition between airlines and OTAs, and amongst OTAs, on flight tickets.

Due to the market power which airlines have relative to DCTs and many OTAs, we believe that the most effective way for this issue to be dealt with is likely to be via positive action on the part of the relevant regulatory and/or competition authorities to protect the ability of DCTs to access and allow consumers to compare all available travel options. We would strongly encourage and support the CMA in considering this issue from the perspective of consumer choice and the impact on UK businesses.

We note that in para 4.1(a) of your Statement of Scope document you raise the question of whether DCTs should "be required to offer products from all suppliers". However, the issue in the travel sector is not that DCTs do not *want* to provide as comprehensive coverage as possible; instead, it is that certain airlines are looking to *restrict* DCTs access to their data. For this reason, our strong view is that what is needed in the travel sector is not for a requirement to be placed on DCTs to obtain data, but rather a clear requirement on suppliers to provide it, or at least to not impose any restrictions around the distribution of flight ticket information that have the effect of

impeding the ability of DCTs to access it and provide consumers with an effective comparison service.

The second barrier relates to the impact of rate parity / most favoured nation clauses (MFNs) on competition within the hotel sector. Despite recent decisions in several jurisdictions to either prohibit MFNs or restrict them from 'wide' to 'narrow', in our view there has been little positive impact on price competition amongst hotels and OTAs in practice. What is and what isn't permissible from a contractual perspective does not necessarily always alter what is happening in practice.

One reason for this is that, although the wide MFNs are no longer in place in theory, the large OTAs continue to influence pricing due to their market power relative to the hotels to the extent that such influence perpetuates the effect of the wide MFNs. Historically, the hotels have developed such reliance on the large OTAs for bookings that the situation as was with the Wide MFNs will remain. Further, the narrow MFN still allows large OTAs to require hotels to give them parity agreements in relation to other online marketing channels, meaning that any other online marketing channel which is not an OTA, for example, metasearch, cannot display lower prices than a large OTA. Given metasearch encourages new entrants such as smaller OTAs to the market, this has the effect of distorting competition in a market which already suffers from a high level of consolidation. It also prevents metasearch sites reaching commercial arrangements with hotels to offer cheaper pricing to consumers, which due to the large volume of consumers using metasearch sites would otherwise be very feasible.

We also note that the practice of 'dimming' (using design psychology to reduce the visibility or perceived desirability of a travel provider, such as by removing photographs) is reportedly on the rise after a series of cases in Europe where hoteliers took action to establish their right to offer lower prices directly than they provide to OTAs. [https://www.washingtonpost.com/life-style/travel/how-online-travel-agencies-are-dimming-results-on-hotel-searches/2016/07/28/16a33026-52ab-11e6-88eb-7dda4e2f2aec_story.html]

We believe that these issues can only be meaningfully addressed by a consistent approach to MFN prohibition throughout Europe, coupled with a consistent enforcement regime taken by competition authorities to ensure that competition is being achieved in practice.

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?

We believe that DCTs have shifted power away from suppliers to consumers by allowing them to properly compare prices and products and thereby be less easily influenced by brand loyalty or a lack of market knowledge. This has led suppliers to become more focused and competitive on product price and quality. The flipside of this is that we have noticed that that some suppliers appear to be more concerned at the possibility of losing direct contact with consumers. []

Theme 3: Competition between DCTs

We will aim to establish whether DCTs are competing effectively with each other, as well as facilitating competition between suppliers of the services they compare. If not, we will explore what may be holding back competition in any particular market.

We will explore how DCTs compete both for consumers and for suppliers. We will assess what well-functioning DCT competition looks like, and the potential for DCTs or suppliers to engage in practices that limit this.

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?

Competition amongst DCTs in the travel sector has traditionally been focused on coverage, price savings and product usability (taking into account user interface design and look and feel as well as speed of search). While these remain key competitive differentiators, in recent years the focus has broadened somewhat to more specifically encompass consumer trust and protection related issues like price accuracy, transparency and data privacy. Consumer awareness and perception of these issues has increased rapidly over the past few years to such an extent that, in many markets, consumers regard them as a 'given'. At Skyscanner, consumer trust and 'doing the right' thing has always been a central driver behind what we do, so we welcome the increasing competitive focus which is being placed on issues of this nature. There have also been some excellent competitive innovations in terms of DCT functionality in recent years, such as multi-city search and price prediction technology.

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

While there are a wide range of factors that can potentially influence the ability of DCTs to compete in the travel sector, the key one in our view is undoubtedly that of access to supplier data for the purposes of providing consumers with the broadest search coverage as possible. The more suppliers that are featured on a DCT, the more transparent a view of the marketplace the DCT can provide and the more empowering and beneficial it therefore becomes to consumers. The DCT which has the broadest and most comprehensive coverage by way of suppliers and product offering is therefore at an advantage.

As noted in several other of our responses to this study, the data access restrictions currently being imposed by various airlines means that competition with regards to coverage is even more important. For example, a major international airline told us that if we wanted to include 'their' flight data within our search results we would need to agree not to display it in comparison against tickets for the same flights being sold by OTAs. This meant that we were forced to make a decision between either agreeing to the airline's demands so as to be able to continue to allow our users to see and book tickets direct with the airline via Skyscanner (in many cases, users will choose to book direct with the airline even where it is more expensive than an OTA competitor because they trust the brand more or want access to loyalty points), or removing the airline from

our search results in order to preserve the ability to provide as wide a possible list of search results (i.e. to enable to user to search against all of the OTAs that were offering those tickets for sale as well).

Another key competitive ground emerging is trust, and in particular price accuracy and price transparency. With some suppliers in the travel market not always being fully compliant with the rules, regulations and spirit of consumer regulations (for example, we have observed some OTAs deliberately providing a low lead-in price to appear higher up in search results but then subsequently adding hidden ancillary charges and credit card fees in order increase the total booking fee at the end of the transaction), the DCT which is able to source as accurate and truthful information from its suppliers as possible, and present it to consumers in as clear and transparent a way as possible, will gain the competitive advantage over its rivals.

In the coming months and years, we hope to see regulatory authorities begin to take concerted action against suppliers that either (i) impose data access restrictions in respect of DCTs that are detrimental to consumers and have anti-competitive effects; or (ii) are providing inaccurate or misleading data to DCTs. This would allow DCTs to focus much more on competing with each other in respect of other factors, such as product quality, usability, and new functionality, which would be of much more benefit to consumers in the long run.

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

While there are various factors at play that *impact* the way DCTs are competing with each other, we don't believe there are any *barriers* to such competition. As we note above, it is becoming increasingly difficult for new entrants into the market due to reduced access to data, and this could become a barrier if left unaddressed.

Theme 4: The regulatory environment

There is a range of regulation of DCTs in place across our sectors of interest, from full regulation in financial services to voluntary accreditation in the telecoms and energy sectors. We will provide an overview of the different approaches to regulation being adopted and assess whether there are lessons to be learnt from comparing approaches.

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

DCTs are currently regulated to a significant extent by laws that were enacted either prior to the advent of the internet or to the legal challenges presented by the internet being fully understood. As a result, there are a number of areas where clarity in particular would be welcomed, along with a more consistent approach to enforcement. One such area is the right of DCTs to access data for comparison purposes where third party suppliers' have imposed data distribution restrictions.

For example, subject to suppliers' rights to enforce any applicable intellectual property rights they may have in data (in the travel sector, it has generally been held that there are no intellectual property rights subsisting in the non-confidential, publicly accessible data that a DCT like

Skyscanner requires from airlines), we believe that it would be in the consumer interest for some kind of legislative protection to be considered to enable DCTs to access such data without threat of legal action.

There is also a lack of clarity which arises at times from a tendency amongst regulators to apply a one-size-fits all approach to DCTs, when in reality the sectors in which DCTs operate and the business models they utilise can be very different. For example, although we welcome the recent attempt by the European Commission to clarify how the Unfair Consumer Practice Directive applies to comparison tools through the publication of the 'Key Principles for Comparison Tools', there are several aspects of these principles which it does not necessarily make sense to apply to all DCTs without factoring in any sector-specific considerations.

One such principle encompasses an obligation on comparison tools to ensure the transparency and accuracy of the prices they display. However, as mentioned elsewhere in our responses to this study, metasearch DCTs like Skyscanner are ultimately reliant on the quality of information they obtain from the supplier of the product or service being compared. Although at Skyscanner we push hard for our suppliers to provide us with full and accurate details of all ancillary fees that may be added to a particular product or service, we cannot compel suppliers to provide it and are finding in practice that some airlines are resisting providing us with that information. We believe that responsibility for issues like this would be better distributed throughout the supply chain rather being focussed on DCTs purely because they sit at the 'top of the funnel'.

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

DCTs often appear to struggle with the challenge of being sufficiently clear and transparent with consumers as to their business structure, how they generate their revenues, what their relationship is with the suppliers that are featured on the DCT, and how their comparison results are generated (e.g. whether they generated purely on the basis of consumers' search criteria, or if some results are given preferential treatment due to incentive payments being paid). In the worst cases, this can lead to consumers being misled into believing that a DCT may be impartial and unbiased when in reality it is not, or that the search result they are presented with is the best option for their needs when in fact it is the option that generates most revenue for the DCT.

At Skyscanner we strongly support increased transparency for consumers and believe that this is an area where the industry needs to improve generally. Greater transparency will enhance user trust, encouraging greater use of online platforms across Europe, bringing consumers numerous benefits and stimulating growth in the economy.

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

Because DCTs take such a variety of shapes and forms and operate in such diverse areas, we think that in general a sectoral approach to regulation would be desirable. For example, the kind of requirements that it may make sense to apply to a DCT operating in a heavily regulated sector like financial services or insurance may not be appropriate or practical to apply to a DCT operating in a more flexible sector like travel. In particular, we think the approach which regulators take to the important issue of price accuracy would be best served by recognising that DCTs are ultimately reliant on the cooperation of the third party suppliers in order to meet any requirements in this regard.

In relation to all of the themes and issues set out earlier, we will look at both the current situation and the effect of likely future developments in the DCT sector.

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?

As a DCT operating in the travel sector, we believe that the most significant and concerning development happening over the next few years is likely to be the trend towards airlines seeking to restrict access to flight information (such as timetables, availability and pricing) and thereby reduce competition.

We have seen airlines taking action since 2010 but there has been a marked increase in action since 2014 as more and more airlines get involved, suggesting the airlines are working together on this to some extent. This trend started with the US airlines but we are now seeing a real 'spread' across the World and into Europe.

As noted elsewhere in our responses, we believe this trend will cause significant harm to consumers as a result of increasing search costs, reducing transparency and stifling competition (both as between airlines and OTAs on the one hand, and as between OTAs and other OTAs on the other hand). In addition, if allowed to continue unchecked, this trend is likely to have a detrimental impact on both OTA suppliers and metasearch DCTs, leading ultimately to metasearch DCTs becoming less effective tools to consumers and, potentially, to OTAs being forced out of the market. This would further reduce competition in the travel industry and lead to even greater reductions in consumer choice and increased prices.

Other comments and further contact

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

N/a

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

Yes

Thank you for taking the time to complete this form.

Please email it to: comparisontools@cma.gsi.gov.uk.

Or post it to:

Digital Comparison Tools Market Study

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