

## Digital Comparison Tools Market Study:

### Update Paper - Response form

1. Thank you for taking the time to respond to the questions in the Update Paper for our Market Study of Digital Comparison Tools (DCTs), published on our [website](#) on 28 March 2017.
2. Please download and save this form before completing it. Please submit your response by **5pm on Monday, 24 April 2017**, either by:
  - Email to: [comparisontools@cma.gsi.gov.uk](mailto:comparisontools@cma.gsi.gov.uk).
  - Or by post to: Digital Comparison Tools Market Study  
Competition and Markets Authority  
7<sup>th</sup> 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 Update Paper 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](mailto:comparisontools@cma.gsi.gov.uk).

## Your details

(Fields marked \* are required)

<b>Title*</b>	Ms	
<b>Forename</b>	Carolyn	
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<b>Email*</b>		
<b>What is your role / profession*</b>	Chief Legal Officer	
<b>Are you representing yourself or an organisation?*</b>	An organisation	
<b>If you are representing yourself rather than an organisation would you be content for us to include your name when we publish your response?*</b>	Yes / No (please delete as appropriate)	
<b>If you are representing an organisation:</b>		
<b>(a) What is the organisation's name?*</b>	Skyscanner Limited	
<b>(b) Please could you briefly explain the role of your organisation, including the sectors in which it operates or has most interest?*</b>		
<p>Skyscanner travel technology business founded in Europe which employs over 800 people globally across its 11 offices. In Europe specifically, we have a large office in Edinburgh, with smaller offices in London, Glasgow, Budapest, Barcelona and Sofia. It is one of the most recognised and utilised travel-focused DCTs in the world with over 60 million unique visitors per month. We were acquired in December 2016 by Ctrip, one of the world's largest online travel agents ("OTAs"), though we continue to operate independently.</p> <p>We operate as a travel 'metasearch' service, a form of DCT which allows users to quickly and easily compare and find less visible travel combinations, via websites and mobile applications, the</p>		

price and product details of thousands of different flights, hotels and car hire options being offered by airlines, hoteliers, 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 are increasingly rolling out ‘direct booking’ with select partners, which allows consumers to make bookings on the Skyscanner site, giving consumers a consistent experience from end to end. This is aimed to minimise the technical challenges and impact on consumer experience that can arise through referring consumers on to third party sites, particularly whilst on mobile devices.

## Consumers

<b>1. Should we focus our attention on the consumer groups we identify in Chapter 5 (see paragraphs 5.82 to 5.95) and if not, what groups should we focus on?</b>
Not answered.
<b>2. In which sectors do DCTs not currently play a major role but could in principle offer substantial benefits to consumers? Why have they not become established in these sectors?</b>
Not answered.
<b>3. How has the growing use of DCTs affected suppliers' offers to consumers who do not use DCTs in our case study sectors and more broadly? What impact have DCTs had on suppliers' ability to discriminate between active and inactive consumers? What are the implications for vulnerable consumers?</b>
<p>DCTs empower consumers through an increase in transparency and a decrease in search and complexity, and the highlighting of travel combinations that are otherwise very difficult to locate. As such they are a competitive force in lowering prices both online and offline. The CMA recognised the value of DCTs to consumers in the Update Paper where it stated that 65% used DCTs in a survey 700 flight shoppers. Marketing of online offers increases awareness to all consumers, through the various marketing channels that DCTs use, for example adverts on television or radio etc. Online deals may not be accessible offline, but that doesn't necessarily mean that they are not visible to consumers who are inactive online. In addition, consumers who prefer purchasing through offline channels can get an overview of prices and availability, whether or not they use these channels themselves.</p> <p>The position in relation to vulnerable consumers is hard to gauge. Such consumers should not be any more disadvantaged than they would otherwise be where they elect to use traditional channels to purchase goods and services only.</p> <p>Skyscanner are certainly not aware of any active discrimination by Suppliers, and would play no part in encouraging such behaviour.</p>

**4. What factors, if any, have we missed that may be holding back consumers from using DCTs?**

Not answered.

**5. What, if anything, should be done about consumers' concerns about data sharing and the extent to which they feel in control?**

We believe that DCTs should be sufficiently clear and transparent with consumers about the data that is being collected about them, who it is shared with, and for what purposes. However, we do not believe that any specific action is required on the part of the CMA in respect of this as the existing data protection and privacy regulations already require that these steps be taken (and the bar will be raised even higher again once the GDPR takes effect in 2018), nor do we believe that online data sharing needs to be addressed on an industry by industry basis, as to do so may give rise to even more questions in consumers' minds about their rights on specific platforms.

In addition, as noted in our original response, we believe consumer trust and the transparency required to engender this are increasingly becoming a critical competitive differentiator, which will serve to drive DCTs to make any changes required independently of any action on the part of the CMA.

**6. What actions, if any, are needed to improve the way consumers use DCTs – including multi-homing and using DCTs' functionalities such as filtering and ranking?**

It is the responsibility of the DCTs to ensure that their products and services are developed in such a way that the relevant product features and functionalities are clear, and properly explained to consumers. This could be through intuitive user interface design or through other information made available to consumers via their platforms.

We believe that transparency and consumer trust is becoming a key differentiator between DCTs.

DCTs are already subject to certain 'key principles' the European Commission endorsed in 2016 as part of the 'Key Principles for Comparison Tools' which were developed by a Multi-stakeholder group. The principles have been described as 'consistent' with the Commission's guidance on the Unfair Commercial Practices Directive and they qualify required standards to some extent in terms of misleading prices and take down procedures for comparison sites relative to online booking platforms. These principles go some way in recognising the distinction between platforms like Skyscanner and online booking platforms, but there is still some work to do in terms of raising awareness about the challenges faced between the different business models

It is important that consumers (as well as regulatory authorities) understand the distinctions between the different business models in DCTs themselves. As stated previously, we are a

metasearch site and aside from the direct booking that is live on the site with certain partners where a user stays on our site to complete a booking (although still booking through the relevant partner), you cannot book directly with Skyscanner. This is an important differentiation to be aware of in terms of the ability (or lack of ability) to control, amongst other factors, the accuracy of the information, for example. Any action on the part of the CMA to bring greater clarity would be welcome.

With regard to multi-homing, our view is that if a DCT provides consumers with a comprehensive enough view of the marketplace there should be no real need for those consumers to multi-home (although it should not be prevented), apart from to double check a certain price on an alternative platform for reassurance purposes. However, as a result of the increasing restrictions on data distribution from airlines and concomitant reduction in coverage on flight DCTs (as detailed further in our response to question 7), our concern is that it will become more and more necessary for consumers to multi-home in order to get a clear view of the marketplace, thereby undermining one of the key benefits of DCTs which is to reduce search times.

## Inputs to DCTs

### 7. Have we captured the range of issues that might prevent DCTs from operating effectively?

The issues in respect of flights described in box 6.1 and at para 6.24(e) are framed too narrowly, and understate the scale of the issues that DCTs in this sector face with regards to access to data.

Although access to “add-on pricing and amenity data” (para 6.24(e)) is certainly an issue for DCTs in the flights sector, and one which we would welcome efforts to address to the extent that all parties can access the ancillary data that is necessary to market flights whilst remaining compliant with the law, this is really just one facet of the wider issue that DCTs in the flights sector face. There is a growing trend of airlines introducing policies which seek to either remove all flight information, including all basic timetable information, from DCTs, or place extremely restrictive conditions around which DCTs can have access to such data (which involve preventing comparison against OTAs).

For example, as described in our original response, 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 *any* 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 (thereby directly harming the ability of OTAs to compete effectively against airlines); and
- prohibiting OTAs, and other third parties that themselves sell, market or otherwise hold flight information inventory (including GDSs and flight schedule providers [✂]), from providing flight information to, and/or receiving consumer referrals from, metasearch DCTs.

We provided full details on these restrictions in Annex A of our original response. Since then, we’ve seen further attempts to limit our ability to market certain airline data in the UK and abroad. [✂]

A number of airlines have refused to work with Skyscanner because we have not agreed to restrictions such as those set out above, due to their detrimental impact on consumers and competition within the marketplace.

However whilst we try to ensure that prices from all suppliers are available on our site, we are increasingly forced to accept certain conditions imposed by airlines to guarantee minimal coverage for consumers in certain areas. This is particularly true where carriers are dominant in a market or route. The effect of these actions has been a reduction in consumer choice and lower competition between airlines and OTAs on flight tickets. In order to effectively address these issues and ensure healthy and effective competition between suppliers, and the best result for consumers, it is important that this wider and more fundamental issue of airlines data restrictions is addressed by the CMA.



**8. Do the issues identified materially affect DCTs' ability to operate effectively and deliver good consumer outcomes?**

Yes. What we are seeing in the flights sector is that DCTs are being forced to choose between either allowing consumers to search and find flight tickets that are offered for sale by a particular airline (or group of airlines) only, and not any OTAs (this might be where an airline insists that the DCT does not compare its tickets against an OTAs tickets, for example), or to allow consumers to search and find flight tickets that are offered for sale by OTAs only and not by the airline direct (this might be where the airline has made a demand relating to data distribution but the DCT and/or OTAs have chosen to disregard it) – both of which options cause harm to consumers.

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, for example because they trust the brand more or want access to loyalty points), or alternatively 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). We chose the latter approach in that situation, but presume that one of our main rivals must have chosen the former given that that airline's tickets remained searchable on their DCT.

In our view, the flights data which airlines seek to protect is not proprietary information but information that is publicly available. Further, we often obtain access to such data through a legitimate licence via a 3rd party OTA (who often provide flights at cheaper prices relative to direct channels). Unless steps are taken to meaningfully remedy these issues, the current trend suggests that, in time, both OTAs and metasearch sites will become increasingly less useful to consumers as a result of them being unable to present a full view of the available options in the marketplace. This will in turn reduce the pro-competitive effects of DCTs and make it harder for new or less well established suppliers to enter or meaningfully compete in the marketplace.

**9. Are current or planned initiatives sufficient to address the issues found?**

No, we do not have reason to believe that any current or planned initiatives are sufficient to address the issues identified in respect of access to flight data. We are aware that the European Commission have been examining this issue and have assisted them in their investigation into Airline Tickets Distribution, but have yet to find out what (if any) steps they will take. We have also been working informally with the US Department of Transport in helping them understand the same issue. They issued a Request for Information in October 2016 but the comments period has since been paused indefinitely as a result of the change in administration. We would strongly

encourage and support the CMA in considering this issue from the perspective of consumer choice and the impact on UK businesses.

## Competition

### *DCTs' market position and barriers to entry and expansion*

**10. What explains the strong position of a specific DCT in each of our case study sectors? What do DCTs do to grow their business in sectors where they appear to be relatively small compared to the leading DCT of the sector?**

Not answered.

**11. What are the barriers, if any, for DCTs to enter or expand into sectors where they currently do not provide comparison services or where they are currently relatively small?**

We agree with the position set out in your update paper. Within the flights sector, we believe that the main challenges are (i) access to the supplier data necessary to provide a comprehensive and compelling comparison service that is attractive to consumers; and (ii) brand recognition and awareness.

*Agreements between DCTs and suppliers*

**12. What has been the impact of the removal of wide MFNs in the private motor insurance sector?**

Not answered.

**13. What has been the impact of narrow MFNs in the sectors where we have observed them (home insurance, private motor insurance, credit cards, broadband and flights)?**

We have not seen any significant evidence pointing to an issue with MFNs in the flights sector. In contrast to the hotels sector, where the MFNs issue has been significant due to the overwhelming market-power and dominance of a limited selection of online travel agents vis-à-vis the hotel suppliers in that sector, in the flights sector the position is reversed to a large extent as a result of the airlines often having significantly more market-power and dominance than online travel agents and DCTs.

**14. What is the commercial rationale for the non-brand bidding and negative matching agreements we have observed (in all of our case study sectors) and what is their commercial and competitive impact?**

The CMA has raised the issue of negative matching as a potential source of concern in terms of competition among DCTs and between DCTs and other sales channels. While it is true that there are potential competitive concerns when these are enforced against smaller businesses or entrants, we believe that this neglects to see the issue holistically, as anti-competitive impacts of negative matching are side-effects of the lack of competition in general search, not as between DCTs and other sales channels (where in fact they are rarely enforced).

In its recent [literature review](#), the CMA appeared to accept that ‘evidence strongly suggests’ an ‘inherent bias’ toward top results (including sponsored results / adwords), and that in the UK between 86 and 97 percent of searches are made on Google. Any lack of competition as a result of consumer bias toward top results must first be addressed on the platform itself

From a commercial perspective, where brands who have a relationship bid on each other’s brands, the provider can suffer from duplicated commissions (impacting the advertising ROI), or the user journey can be interrupted, and the chain of acquisition broken from the perspective of the DCTs, meaning it can lose the right to be attributed commission for long-term consumers they have onboarded and introduced to a product, where such consumer subsequently searches and selects a paid Google link. For this reason, a practice has emerged of agreeing not to bid on branded (usually trademarked) keywords between suppliers and DCTs.

Competition issues caused by the power of search engine marketing must be solved by tackling the anti-competitive status of the search engine rather than its customers. But for the state of the search industry and its anti-competitive ranking practices, there would be no competition issues between the advertisers on its platform whether or not negative matching is employed. Taking steps to restrict negative matching agreements without resolving this underlying problem would have the counter-productive effect of increasing the necessity for brands to bid against each other, increasing costs in favour of the search engine as well as reducing the main benefit of search engine marketing allowing even small online companies and new entrants to appear in results through considered use of keywords and comparative advertising given the higher value of a bid required to be displayed in the results.

**15. What is the commercial rationale for the non-resolicitation agreements we have observed (in home insurance and energy) and what is their commercial and competitive impact?**

Not answered.

**16. In which other sectors, if any, are (i) wide or narrow MFNs; (ii) non-brand bidding or negative matching; or (iii) non-resolicitation agreements in place? What impacts do they have in these sectors?**

In line with our answer to question 8 of our original response, we note again that the existence and impact of MFNs in the hotel sector is well known. 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 and MFNs still represent a significant issue. There are various reasons for this, but in our view it boils down to a combination of the significant carve-outs that exist under 'narrow' MFNs and the fact that changes in 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.

Since we initially responded to this matter we are aware that there have been further developments on the issue of MFNs within Europe, specifically in Belgium where several politicians have been advocating the prohibition on price parity in contracts between OTAs and hotels. We believe this is now being considered in a broader horizontal regulation on contractual relationships between larger and smaller businesses.

An outright ban on MFNs was also voted for by the relevant committee in Switzerland and it remains to be seen if this view will also be advocated by the plenary.

In any event, there should be a consistent approach throughout Europe rather than being debated member state by member state with different outcomes being reached. Currently, MFNs are prohibited by law in some countries but not others within Europe. It is also accepted by some of the National Competition Authorities in the same countries it has been rendered illegal. All in all, this means a wholly incoherent and inconsistent position across Europe which, in turn, means

uncertainty for hotels and OTAs alike and results in a position that is completely at odds with the vision of a digital single market.

**17. Are there any other agreements in place that may affect the effectiveness of DCTs and/or the effectiveness of competition between DCTs (and competition between DCTs and other sales channels)?**

Yes, in the flights sector the dominant airlines are increasingly using the agreements in place between themselves and (i) online travel agents who sell their tickets; (ii) GDSs which manage and distribute airline fare and itinerary data; and (iii) flight scheduling companies ([✂]), to prevent DCTs from obtaining from such third parties the data required to give consumers full and transparent visibility of the available travel options.

[✂]

Please see our response at question 7 and Annex A of our initial response for further details on the relevant agreements.

**18. How has the growth of DCTs affected product features and/or the product mix in our case study sectors over time? What specific evidence/examples indicate these changes?**

In the flights sector, the growth of DCTs has supported a shift toward consumers primarily comparing price over product features. This has been beneficial to consumers in many ways including, principally, by driving a reduction in prices due to increased competition as we demonstrated in our initial response. However, since airlines began charging additional fees for ancillary products such as baggage and meals, rather than including those elements within the airline ticket fee, consumers need to be able to properly compare product features alongside price where they would like to do so.

Differing views around what are classed as ‘ancillaries’ can therefore cause issues in how that intersects with the initial presentation of prices – for example, the question of whether the cost for hold luggage be displayed by default, for instance between budget and business travellers. The ability to introduce flexibility such as filtering costs by majority credit card presents a significant technical barrier for new entrants without direct access to this information and this is further complicated by what the ‘majority credit card’ is in each jurisdiction and whether such information is supplied automatically or otherwise by the partners.

This is an ongoing issue, associated with the challenges in accessing information related to ancillary fees, but this has led Skyscanner to develop a ‘2-step layout’ to help consumers choose the flight itinerary which best meets their needs, before then comparing not just the prices of the various tickets available on that itinerary but also the quality of the supplier and to factor in any brand preference or loyalty. An example of this can be seen in the Annex to this Response.

Similarly, the development of the New Distribution Capability which is designed to be a new standard to make distribution of ancillary fee information much easier, is an evolution that should provide consumers with greater access and transparency (subject to appropriate adoption by airlines).

In summary, DCTs promote innovation as well as competition. By constantly developing and differentiating product features, DCTs encourage other online channels to compete at the same level. More often than not, access to date and information is the inhibiting factor over technological barriers.

**19. How widespread is the use of product reviews and ratings on DCTs and what has been the impact, if any, of the use of these tools?**

DCTs in the flight sector have tended to be focussed primarily on price comparison. However, as noted in our previous response, we believe that in order to ensure that consumers are as empowered as possible in their decision making, it is important that DCTs begin to shift more towards providing *product* comparison as opposed to just *price* comparison.

To this end, we've recently launched a feature called Quality Ratings on our flight search DCT. Every supplier we feature is given a Quality Rating between 1 and 5 stars based entirely on consumer feedback we have collected directly from our users over the previous 91 days.

The Quality Rating takes into account issues such as price accuracy, additional fees and the booking site's ease of use, along with the volume of customer complaints. It does not reflect the experience on-board the airline. The Quality Score is updated on a weekly basis so that customers can be sure they are basing their decisions on the latest information.

Our aim with this feature is to help consumers make more informed decisions: by displaying a Quality Rating alongside each supplier this allows consumers to quickly assess overall quality of service, including price accuracy and pricing transparency, before making a booking, as opposed to having to base their decision on price alone.

While price is still the number one choice factor for users of our flights DCT, we are aware that it is not the sole factor for users. To help users make an informed decision, we launched Quality Ratings earlier this year to give consumers an opportunity to 'trade up' to higher rated partners even when they are not the cheapest. We believe that in turn this will add a commercial incentive for flights providers to improve their service, as they are now competing on not just price but quality too. It allows our travel partners to receive high volumes of actionable feedback to improve the consumer experience, as well as improve their score. Since Quality Ratings have been implemented, we have seen a marked reduction in consumer complaints (30% when compared to the previous 12-month average).

**20. What needs to be in place to prevent or mitigate any harmful impact of product unbundling or hollowing out and what can DCTs do about it?**

For DCTs in the flight sector, the main issue is lack of access to the information necessary to enable the provision of a more product-comparison focussed service. DCTs are reliant on such information being made available by the flights suppliers in the market place. As noted previously, airlines in particular have been resistant to providing DCTs with the kind of ancillary information necessary to achieve this. In order to prevent product unbundling or hollowing out, we believe that it would be in the consumer interest for some kind of legislative protection to be considered to either require travel information to be publicly available and prevent attempts to restrict availability of that travel information, or to otherwise enable DCTs to access such data without threat of legal action (e.g. by sourcing it from third parties).



## Regulation

### 21. What are your views on the issues we list in Table 8.1 and at paragraphs 8.13 to 8.42 of Chapter 8 and how could they be addressed?

The key issue affecting the flights sector that we believe warrants regulatory action is that of airline data distribution restrictions.

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 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, and enable the consumer to make fully informed travel decisions.

There are a range of potential solutions to this, but our suggested approach would be to make it a requirement that airlines must (i) not seek to prohibit or prevent DCTs from accessing flight data for the purpose of including it within that DCTs search results including, without limitation, by not restricting third parties who have lawful access to that information (such as OTAs that sell that airline's flights, or GDSs or flight schedule providers) from making it available for display on DCTs via arms' length agreements between those third parties and the relevant DCTs (analogous in a certain sense to the principle of exhaustion of rights); and; (ii) ensure that, where they have agreed to directly share flight data with a DCT (for example, pursuant to a direct contractual relationship between DCT and airline), such data is full and accurate and provided in sufficiently granular detail to allow the DCT to provide consumers with clear and transparent detail of available ancillaries and all costs applicable (such as baggage fees, credit card fees and tax breakdowns).

We would not advocate a 'Whole of the Market' (WOTM) style approach whereby DCTs in the flights sector would be *required* to display information relating to all possible suppliers, and we acknowledge the issues identified in paragraph 8.34 of your update in respect of a WOTM approach. In addition, we would caution in particular against a WOTM requirement being feasible or, of itself, beneficial to consumers in the flights sector given that the suppliers and range of different ticketing possibilities in different markets can change by the day

Our strong view remains that what is needed in the travel sector is not for a requirement to be placed on DCTs to *obtain* data, but rather some kind of clear requirement on suppliers to *provide* it, or at least to be prohibited from trying to 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. It should be for the relevant DCTs to determine whether in each case a whole-market approach is the most appropriate for their consumers in that context – indeed the extent to which a flights DCT has put in the 'leg work' developing the systems and algorithms required to search and sort a comprehensive view of the marketplace is one of the key competitor differentiators between DCTs, and we would caution against the CMA taking action that mandates a whole-of-the-market approach in a way that could

lead to a similar reduction of investment in the DCTs in the flights sector as was seen in the energy sector.

Given that intellectual property does not subsist in flight ticket information, on the issues of barriers to entry and future-proofing, we are also worried by recent legislative developments addressing data mining at a European and UK level. Limiting rights of automated web access to academia and public authorities could seriously detriment the UK technology sector, in particular for new entrants, at a time where the UK and Europe are already lagging behind APAC and North America, with none of the top 20 global internet companies based in Europe.

**22. What is the balance between potential benefits and risks in introducing a cross-sector approach? What would be the most effective approach(es), and why?**

As indicated in our previous response, we believe that sector by sector approach is preferable to a cross-sector approach given the huge differences in the nature of the products and services which DCTs compare in each sector. We are concerned that a cross-sector approach will be unworkable except in respect of a very limited number of high-level principles.

For example, with respect to the proposed ‘accuracy’ requirements referenced in table 8.4: a requirement for a DCT in the energy sector to provide full and accurate information relating to all potential deals that much a customer’s search criteria may be feasible given the relatively small number of suppliers in that sector. However, this would be impossible for a DCT operating in the flights sector given the high volume of suppliers and the multiple itineraries and prices offered by each and the dynamic nature of flight pricing. To put this into context, Skyscanner presents over 27 billion results daily in response to user queries. In addition, the fact that a presenting the ‘best’ flight product often involve trade-offs between cost and travel time means that there is a subjective element which may not be relevant in the other sectors covered in the market study.

In addition, a flights sector DCT is also entirely dependent on its airline and OTA suppliers for the provision of the information necessary to enable it to present to consumers the possible additional costs and contingent fees that are applicable.

**23. How could a cross-sector approach interact with existing regulatory frameworks?**

As online comparison develops and takes on an increasing number of forms (from direct sellers, to platforms, metas, ‘malls’, price prediction and hybrid models, and this all in our one sector) we believe that, if a cross-sector approach must be taken, an approach on a principles basis such as for the EC Principles for Comparison Tools, which provide clarity on *the application of existing consumer rules* in plain language is the correct one. This brings the benefit of increased competitiveness internationally, lower barriers to entry, and mitigates the lack of clarity that may otherwise emerge from non-black letter approaches to regulation.

While this approach does carry difficulties such as the risk of ultra vires interpretation of existing law, we believe that clarity in the regulatory approach, and above all the avoidance of conflicting or cumulative applicable laws, will do far more to cement trust between consumers and DCTs. However, for the reasons set out above we would prefer a sector-by-sector approach.

## The future of DCTs

**24. What future developments outlined in Chapter 9 are likely to have the greatest impact in driving engagement? If there are any important developments we have missed, what are they and why are they important?**

While true innovation is difficult to predict, some current trends do have clear future implications in terms of consumer engagement. However, many decisive factors in other sectors (such as auto-switching) are far less relevant in the travel sector.

So far as is foreseeable, advances in machine learning are likely to have the greatest impact across the board, enabling organisations to increase the effectiveness and therefore reduce the intrusiveness and frequency of key engagement patterns such as calls to action and increased personalisation. In fact, machine learning is the key to the full realisation of many of the trends, such as big data, journey enhancement and advances in software agents, which are identified in Chapter 9. We expect to see the practical results of such developments in the near future, such as in the challenging area of crunching billions of possible product combination options for consumers.

For example, machine learning could curate travel itineraries and allow more accurate predictions on the best times to book. Big data could allow organisations to make decisions based on what is valuable to specific consumers, for example, presenting ready-to-book personalised travel options for business travellers whose existing flights are cancelled.

As many potential developments will use personal information relating to consumers, other advances in technology which empower users to control when and to whom information is disclosed may also begin a fundamental shift in online engagement, giving consumers the confidence and control to provide more information to organisations with whom they have a trusted relationship without fear of that information being misused.

One important arena of development is the APAC market – encompassing the majority of the world’s population, arguably setting the trend in technology uptake (such as towards mobile) and with a growing middle-class, we expect many key developments to emanate from these markets. Unique approaches to payments, applications and social platforms will increasingly influence consumer expectations and DCT capabilities in the UK and Europe.

**25. What future DCT-related technologies might affect or assist vulnerable consumers?**

People with particular personal needs will benefit from increased personalisation. Mobile and wearable technologies could result in bespoke solutions being more easily obtainable. For example, there have been experiments with vibrating smart watches as a means of providing a blind and cognition friendly alternative to GPS maps for finding hotels. Developments in voice-recognition and artificial assistants can and have been combined to provide powerful voice-enabled solutions in the travel industry, very different from the usual 'booking funnel'.

One issue that risks inhibiting such DCT-related technologies developing are overly-prescriptive disclosure requirements, which can hem in and promote cluttered and confusing designs which are difficult to navigate for users with motor or cognitive impairments, particularly on mobile. Since various jurisdictions impose subtly distinct requirements, a truly international product requires extensive, difficult to scale (and potentially expensive) regulatory localisation making iterative development processes and experimentation difficult.

## Other comments and further contact

We welcome submissions on any of the issues we address in our update paper from interested parties. We would particularly like to hear views, supported wherever possible by evidence, on the following themes if not already addressed above:

- a) What DCTs do and the benefits they can offer.
- b) Consumers' views on and use of DCTs.
- c) Inputs to DCTs.
- d) Competition between DCTs and between DCTs and the suppliers whose services they compare.
- e) Regulation of DCTs.
- f) The future of DCTs.
- g) The focus of the second part of the market study.

<b>Do you have any other comments you would like to add?</b>	
<p>In summary, the recurring themes in a lot of the questions we have responded to go back to the data access point. We believe that DCTs, particularly in the travel sector, enhance competition and benefit consumers in a multitude of ways. It is crucial that DCTs are able to continue to enable consumers to make informed travel decisions.</p> <p>It is also important for consumers and regulatory bodies to be aware of and recognise the distinction between different platforms, e.g. metasearch versus booking engines. Otherwise there is a risk that regulations will come into force that impose inappropriate, unrealistic and counter-productive obligations on parties that are incapable of fulfilling such obligations. An example of this would be earlier versions of the Package Travel Directive, which seemed to have metasearch sites fully in scope rather than just OTAs.</p> <p>On the other hand, the 'Key Principles for Comparison Tools' (although cross-sector in nature), are successful in adopting principles on a high-level basis that encourage businesses to act in a clear and transparent manner to the benefit of consumers. To that end, it's imperative that any potential regulation, on the part of the CMA or otherwise, manages to strike that balance between keeping DCTs of varying forms in check without jeopardising the ability of those DCTs to continue to provide the benefits they do to consumers.</p>	
<b>Would you be willing for us to contact you to discuss your response?*</b>	Yes

**Thank you for taking the time to complete this form.**

Please email it to: [comparisontools@cma.gsi.gov.uk](mailto:comparisontools@cma.gsi.gov.uk).

Or post it to:

**Digital Comparison Tools Market Study**  
**Competition and Markets Authority**  
7th floor  
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