

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.
 - 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 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.

Your details

(Fields marked * are required)

Title*	REDACTED]
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Forename	[REDACTED]
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Surname*	[REDACTED]
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Email*	
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What is your role / profession*	Senior Legal Counsel
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Are you representing yourself or an organisation?*	An organisation (please delete as appropriate)
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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?*	No (please delete as appropriate)
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If you are representing an organisation:

(a) What is the organisation's name?*	AA Insurance Services Limited
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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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AA Insurance Services Limited (AAISL) is an insurance intermediary. Its main activities are acting as an insurance broker for home and motor insurance using a panel of external underwriters.

AAISL also arranges roadside recovery provided on an insured basis by Automobile Association Developments Limited.

Consumers

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?

No submissions on this question.

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?

No submissions on this question.

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?

In our experience the growth of PCWs and DCTs has had a negative impact on those consumers who choose not to use PCWs or DCTs.

Most favoured nation clauses (MFNs)

For those consumers who choose to go direct to the AAISL website, when MFNs are in place we are prevented from passing on any savings or discounts to reflect the relative profitability of the channel, as we have to offer the same price as the PCW/DCT offering.

Generally the same product and price points are offered by the AA, and the majority of insurers, across all PCWs and DCTs despite differences in cost per sale fees and Life Time Value. This occurs due to narrow MFNs in place with each DCT/PCW, which have the effect of levelling out price across all providers. In other words, despite the prohibition on explicit wide-MFNs, the operation of narrow-MFNs still leads to effective wide-MFNs in practice.

Narrow MFNs have been applied by PCWs/DCTs so that suppliers are not only prohibited from offering the product directly through their own website at a lower or discounted price, but are also prohibited from offering any terms that are more favourable. These prohibitions could include restricting different product benefits or preventing use of promotional incentives for direct to website sales.

In some contracts, where PCWs/DCTs have agreed to consider some exceptions for direct to website offers, the supplier is required to notify their intentions to the PCW/DCT in advance and PCWs/DCTs have the right to suspend providers' products from their website for the duration of the direct to website offer.

The negative impact of MFNs can be seen where we look at how the cost to the customer of the insurance policy is calculated. The cost is calculated taking into account (1) commission payable to AAISL to cover AAISL's broking services, and (2) the premium payable to the insurer (net rate).

AAISL Commission Calculation:

AAISL calculates its commission based on the Life Time Value (LTV) of customers taking out policies. LTV is a measure of the value to AAISL of a customer, taking account of factors such as:

- Acquisition cost
- Likelihood of the customer renewing their policy
- Income received from premiums and other products
- Cost of claims
- Cost of fraud risk

LTV is normally measured over 3 or 5 years, on the assumption that a proportion of policyholders will renew their policies after the first year. Acquisition costs which are incurred when the policy is first set up can thus be spread over the expected 3 years rather than all needing to be covered in the first year.

The table below shows various Value Metrics for Motor Insurance i.e. Life Time Value (LTV), year 1 renewal rate (Y1RR) and cost per acquisition (CPA) fee by PCW compared to Direct sales:

[REDACTED]

As the table shows, LTV is much lower for PCW/DCT channels and in normal circumstances the total cost to the customer is priced accordingly based on the LTV. However, the operation of MFNs means that for direct to website sales, AAISL cannot offer a lower price because the website price cannot be lower than the PCW/DCT price. Thus any savings cannot be passed on to direct customers. This in effect means that loyal customers who come direct to the AA website are disadvantaged and returned a higher price than their risk reflects in order for us to comply with narrow MFNs.

The table also shows that the best PCW/DCT channel for LTV, provides much better renewal rates and a lower CPA Fee. In an ideal world we would reduce prices for a high performing PCW/DCT. However, the existence of narrow-MFNs means that if we reduce price for a high-performing PCW/DCT we cannot also reduce price on our direct website as this would break the MFNs with the other PCWs/DCTs. Therefore we have to either (1) have a higher price on our direct website (which negatively affects potential direct customers and damages the AA brand) or (2) not 'reward' the high performing PCW/DCT, meaning customers coming through that PCW/DCT miss out on potential savings.

The lack of market competition coupled with the endorsement of narrow-MFNs has had the effect of creating de facto wide-MFNs, which is inconsistent with achieving good customer outcomes.

PCWs/DCTs grew rapidly before narrow-MFN's were endorsed, and MFNs (wide or narrow) are not necessary for the effective operation of PCWs and DCTs. PCWs and DCTs had grown to be the largest distribution channel for motor insurance before the introduction of MFNs.

We urge the CMA to ban all MFNS, including narrow MFNs as we believe them, to be anti-competitive themselves.

Insurer Net Rate:

In relation to premiums charged by our panel insurers (net rate), our internal analysis has showed that the effect of MFNs is to increase prices for direct customers by, on average, £[REDACTED] per policy.

Prior to MFNs being introduced our analysis showed that 6 of our panel of insurers would provide a lower net rate for channel 'direct to website' v. channel 'aggregator' on the basis of risk of cost of claims/cost of fraud risk. We analysed a batch of quotes run with the pricing channel 'direct' v. pricing channel 'aggregator'. Our analysis showed that by forcing our panel of insurers to offer the same rate on 'direct to website' as they do on 'aggregator', the direct to website net rate would increase by £[REDACTED] on average. Given our relatively low average premiums, this would equate to around a [REDACTED] % increase.

If MFNs were prohibited completely, LTV reductions and lower premiums could be passed on to direct to website customers and to those aggregator channels which provide greatest value. This would improve customer outcomes for those direct customers without disadvantaging PCW/DCT customers. As evidenced through their rapid growth, Price Comparison Websites operated successfully before the introduction of narrow MFNs.

Product innovation / hollowing out

We believe that the Update Paper does not provide a balanced view on product innovation and "hollowing out".

Our view is that innovation on PCWs/DCTs is difficult to achieve. There is limited opportunity to present information to consumers and there is an almost sole focus on price.

The AA has a strong brand, associated with motoring, and yet circa [REDACTED]% of our motor business comes from the top position on PCWs/DCTs. We understand that for lesser known brands even more of their business comes from being top position.

We have looked at data about how many customers click on AAISL products when viewing PCW/DCT websites, based on AAISL appearing in first, second or third position:

AA Clicks from PCW position:

[REDACTED]

It is clear that by far the highest click through rates occur when AAISL appears in first position. First position is achieved only based on lowest price.

This strongly indicates consumers are not looking at the product they are buying (i.e. product features and benefits), just the price. There is little to no focus on product comprehensiveness, claims handling approaches, or service promises. In this context product innovation is suppressed and "hollowing out" prevalent.

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

In relation to insurance, an overriding consideration is to ensure that consumers are provided with good outcomes. A good consumer outcome should not just be a cheap price. There are various factors when choosing insurance that need to be considered together when assessing what is a good consumer outcome, for example:

- The level of customer service delivered by the provider
- Product features and benefits – some products cost a little more because they provide better cover
- Claims experience - i.e. the quality of the claims handling service
- Claims repudiation – i.e. the likelihood of the claim being paid in full or denied (in part or full) with reference to the FCA “value for money” pilot
- The solvency of the insurer – i.e. a well-established and highly solvent insurer is less likely to fail and be unable to pay claims

The excessive focus on price by PCWs/DCTs means that factors like those listed above are not appropriately presented to consumers and consumers are not given a meaningful mechanism to consider these when using a PCW/DCT.

There has also been continued negative press around PCWs withholding better prices and forcing consumers to pay more for their cover. It is unclear how widespread these practices are but as long as these practices are able to continue unchecked consumers’ confidence in a true price comparison service will be impacted. (see USwitch articles in reported in The Sun in 2015 and March 2017)

<https://www.thesun.co.uk/money/3192837/dodgy-price-comparison-site-uswitch-blasted-once-again-for-hiding-best-deals-from-families-fleeing-them-out-of-120-per-year/>

Further, the operation of MFNs has the effect of making products excessively generic (as providers are forced to provide similarly priced products across their own websites and each PCW/DCT) which further limits the ability of consumers to have a range of options and be able to make an informed choice.

In our view the Update Paper focusses too heavily on helping DCTs and PCWs and does not give adequate consideration to the important role that other distribution channels should play.

We believe that for insurance, the best outcomes for consumers will be achieved through having effective and competitive home and motor insurance markets involving multiple distribution channels. Consumers should have access to a choice of products provided by a blend of direct insurers, insurance brokers, PCWs and DCTs. We agree that PCWs and DCTs have a role to play, but markets should not be allowed to be skewed to favour PCWs and DCTs over other distribution channels.

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

Over the recent period we have been subjected to numerous examples of incidents that have occurred following data transfer from PCWs and DCTs, many of which have resulted in issues so serious that reporting to the FCA was required.

These incidents have left customers with incorrect cover and sometimes with no cover at all. For one particular PCW there have been 7 occurrences of incorrect data breach incidents in the past 12 months, impacting circa 3,000 AAISL customers who purchased their cover via the PCW.

In one example of a data breach incident the PCW did not pass onto the supplier details provided by their customers on previous insurance claims and/or criminal convictions. In the event of an accident or incident the customer could find their insurer would deny a claim as material facts had not been disclosed to the insurer.

The responsibility, and cost to rectify these issues caused by the internal practices of PCWs/DCTs have been left with the insurer to amend and deal with customer fall out.

In contracts with suppliers, not all PCWs/DCTs have been willing to accept customer liability for data errors which arise from their own customer journey, meaning that either the customer, supplier or insurer would ultimately pick up the cost of the PCW/DCT fault. In addition, PCWs/DCTs have been unwilling to accept any right of audit, despite expecting the AA to accept them. In light of the data issues highlighted earlier, right of audit should be a mutual contractual term.

In our view PCWs and DCTs should have the same responsibility as any insurance broker placing business with an underwriter and this responsibility should be regulated thoroughly.

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?

PCWs and DCTs need to be clear with consumers on what products are being compared and what is being missed from the comparison. There is a misconception amongst consumers, as evidenced in the Update Paper, that PCWs and DCTs compare all or most of the market.

We believe that PCWs and DCTs should be required to clearly disclose that they are not ‘whole of market’. Such disclosures should be prominent and made in a manner that is clear, fair and not misleading, so that consumers are fully informed that other potentially suitable products may be available that are not listed on the relevant PCW/DCT.

Additionally, we believe that MFNs also have the effect of reducing multi-homing. MFNs have the consequence of levelling out prices for suppliers across all PCWs, DCTs and the supplier’s own website. This is because insurers are reluctant to offer a cheaper premium on PCWs/DCTs than their direct website, as this would undermine their brand and customer loyalty. This has the consequence of discouraging multi-homing because consumers will tend to find basically the same price at each location. If all MFNs (narrow as well as wide) were prohibited, there would be greater scope for different prices which would make multi-homing more attractive to consumers.

If consumers understand this is not full comparison they will be encouraged to research via other channels and multi-homing (i.e. by using multiple PCWs and DCTs, brokers and direct providers before making a decision) will be increased.

Inputs to DCTs

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

In AAISL's view, there is significant evidence within the Update Paper itself (and its appendices) that PCWs and DCTs do not compete effectively within the home and motor insurance markets.

AAISL feels that the CMA should assess the effectiveness of competition within the relevant product markets as a whole.

In our view there is an excessive emphasis within the Update Paper on supporting the operation of PCWs and DCTs which would in effect result in an oligopoly. However the Update Papers has failed to consider how PCWs and DCTs may operate to distort competition or operate in markets as a whole. For example [REDACTED] could result in 1) providers only quoting on consumer risks that are profitable or 2) providers withdrawing from certain PCWs altogether. Neither of these options provide a good outcome for consumers.

PCWs and DCTs inherently favour consumers who have standard or generic risks to insure. They do not cater well for consumers who have non-standard risks, or who have vulnerabilities, who require a more personalised service. To provide a truly sector-wide, competitive and consumer-focussed offering, PCWs and DCTs need to cater for all consumers, not just the most vanilla. The current approach to fee negotiation prevents providers from being able to offer quotes to all consumer cohorts as to do so would not be financially viable.

The prevalence of MFNs, and the implicit endorsement of narrow MFNs, is a clear example of how PCWs and DCTs operate in an anti-competitive manner. This endorsement of MFNs has permitted (in all likelihood, encouraged) PCWs and DCTs to restrict the ability of providers to offer better and/or cheaper products through non-PCW/DCT distribution channels, thus reducing competition within markets as a whole.

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

In AAISL's view, there is an excessive focus on price as an input for PCWs and DCTs. Achieving a good consumer outcome when taking out home or motor insurance is about much more than simply finding the cheapest product.

To properly achieve good consumer outcomes, there needs to be a greater emphasis on enabling the proper comparison of product features and benefits between providers. Consumers need to be given the right information in a digestible format so they can make an informed choice.

Please see AAISL's response to question 3 above, which provides evidence of the high proportion of customers buying from products ranked cheapest by PCWs/DCTs.

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

No submissions on this question

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?

The strong position of one PCW/DCT over another can only be explained by the ability to sustain high levels of media spend and invest in marketing sales promotions to attain market dominance. We have obtained data from Nielsen Ad Dynamix on media spend by advertiser within the Insurance sector (www.addynamix.co.uk/microsite/about_nielsen). This data includes TV, Radio, Press, DM and Outdoor media spend but does not include the cost of production, marketing promotions, sponsorship or digital spend. The table below shows media spend for the top 11 advertisers within the insurance sector, including PCWs/DCTs and individual insurance brands:

[REDACTED]

During 2015 & 2016 the dominant PCW/DCT with the largest market share of Motor insurance new business aggregator sales at [REDACTED]* and the largest market share of Home insurance new business aggregator sales at [REDACTED]* (*source: [REDACTED] March 2017) spent [REDACTED]% more on advertising than their nearest competitor, and [REDACTED]% more than the nearest PCW/DCT competitor. This particular PCW/DCT commands the largest cost per sale fee levels across Motor and Home insurance to support their high levels of advertising and investment in marketing promotions to secure their market share.

Whilst suppliers can choose to pass on high cost per sale fees in prices offered to consumers who choose to purchase via this channel, suppliers' prices for direct channel consumers would also rise in tandem due to the existence of narrow MFNs. Inevitably this also impacts other PCW/DCTs as suppliers match the price increases across channels so that their direct to website channel is not undercut. Alternatively, suppliers can choose to (1) only quote on consumer risks that are profitable within the more expensive channel or (2) withdraw from expensive PCWs altogether. Neither of these options provide good outcome for consumers.

For the AA the dominant PCW represents [REDACTED]% of our aggregator sales for Motor. Our experience shows that this PCW have one of the highest amount of churn coupled with a low 3 year LTV and the highest cost per sale fee. (see table in Question (3) for metrics per PCW/DCT), however as stated above, where we choose to reflect poorer LTV/high acquisition costs in the prices for consumers who choose to purchase via this channel our direct prices must rise in tandem due to narrow MFNs, and indeed across other PCWs, or we can make choices which result in providing quotations to fewer customers.

Insurance products are essential to consumers and provide critical protection against the risks we all face in everyday life. Such insurance products are rightly subject to important and extensive legal and regulatory requirements, designed to protect people financially in potentially life changing situations.

We are very disappointed that the law allows such important products to be sold through PCWs and DCTs on the basis of marketing sales promotions and the ability to sustain high media spend, which is ultimately shared across all acquisition channels due to

narrow MFNs. The customer unknowingly pays for these sales promotions as the cost of these is factored in to the insurance pricing model, which impacts the premiums that suppliers have to charge. The use of such promotions ultimately trivialises the importance of insurance.

We believe there are significant barriers within the Insurance sector for existing PCWs and DCTs to grow their business in sectors where they are relatively small. For example, we believe that [REDACTED] largely exited the insurance comparison space as they were unable to compete with high levels of media spend required to command market share. Similarly, two other well established consumer brands, [REDACTED], launched price comparison websites within the insurance sector but were unable to command market share and ultimately failed. More recently [REDACTED] has entered the price comparison space within the insurance market, backed by [REDACTED]. They have access to a large customer base through magazine subscriptions but so far we have not seen any impact to market share of the top 4 PCWs.

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?

As above, we believe that there are significant barriers to enter or expand into comparison services within the insurance sector due to high media costs and market dominance.

The inability of PCWs and DCTs to cater for consumers with unusual risks or specific vulnerabilities is also a barrier to entry and to full and effective competition.

*Agreements between DCTs and suppliers***12. What has been the impact of the removal of wide MFNs in the private motor insurance sector?**

We believe that the removal of explicit wide MFNs, which led to the endorsement of narrow-MFN's, has now resulted in the proliferation of wide MFNs through the back door.

Previously AAISL was not subject to wide MFNs generally.

However since wide MFNs were prohibited and narrow MFNs effectively endorsed, AAISL has seen a proliferation of narrow MFNs through all our PCW/DCT contracts. The blessing of narrow-MFN's has meant that we have not been able to negotiate on these clauses and they have been expanded to include product terms as well as customer pricing as explained in our response to question (3).

As noted in our response to question (3) above, and consistent with the data provided, AAISL's view is the MFNs in general are not in consumers' interests as they restrict the ability of the supplier to offer better deals through direct website channels.

The CMA banned the use of wide MFNs in 2015 for Motor Insurance, but this was viewed by PCWs and DCTs as a vindication of narrow MFNs. For an insurer, narrow MFNs across all the big four DCTs/PCWs mean that an insurer cannot price direct to their own website business cheaper than the most expensive PCW/DCT.

In order to not disadvantage direct sales most insurers, therefore, offer the same premium across all on line channels. This is despite business coming to their own websites:

- (1). not having a PCW/DCT fee
- (2). often presenting a lower claims cost risk (device and IP address identification can reduce fraud risk when direct)
- (3). having higher retention (and hence lifetime value).

PCWs/DCTs grew rapidly before narrow-MFN's were endorsed, and MFNs (wide or narrow) are not necessary for the effective operation of PCWs and DCTs. PCWs and DCTs had grown to be the largest distribution channel for motor insurance before the introduction of MFNs.

We urge the CMA to ban all MFNS, including narrow MFNs as we believe them, to be anti-competitive themselves.

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)?

AAISL can only comment on the home and private motor insurance markets. In our experience the implementation of narrow MFNs has negatively impacted long term value for consumers applying directly through our own website as we have been prevented from passing on savings to consumers. Please refer to our response to question 12.

One other entity in the AA group, AA Financial Services Limited (AAFS), has dealings with PCWs and DCTs, in relation to financial services products such as credit cards, savings accounts, personal loans and mortgages. AAFS has experienced MFN issues from PCWs and DCTs in some of these sectors. AAFS shares AAISL's view that all MFNs should be prohibited for much the same reasons as outlined above.

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?

AAISL believes that brand bidding and negative matching are important tools in digital marketing. In order to ensure fair competition within relevant markets (including in particular the home and motor insurance markets) brand bidding and negative matching do need consideration to ensure an appropriate balance between the rights of PCWs, DCTs and other providers, and to protect parties' intellectual property rights. We urge the CMA to place emphasis on this area in the next phase of their study.

We believe that suppliers should be unrestricted in their ability to brand-bid on their own brand names. Likewise PCWs/DCTs should also be free to brand-bid on their own brand names.

We believe that suppliers should continue to be free to enter into agreements with PCWs and DCTs that prevent PCWs/DCTs from brand bidding on the supplier's name (and vice versa), to protect the parties' intellectual property rights and prevent customer confusion.

We believe that brand-bidding on brand names of competitors or unrelated suppliers is not appropriate, and potentially represents an infringement of legitimate intellectual property rights, including trademarks and trade names.

If the industry were prevented from entering into agreements that prevent non-brand bidding and negative matching agreements, this will lead to inflated click costs for brand terms. PCWs and DCTs will have budgetary scope to afford the inflated keyword bids required because they have a better chance of conversion on the basis of the number of brands quoting on their panel versus a single brand. This will in turn lead to brands finding it ineffective to bid for their own brand terms and will mean that the brands the customer is actively looking for will be less likely to appear within search engine returns when consumers are actively looking across the market for different offers. This could also lead to further lack of trust in the sector.

The consequence of changing such arrangements is poorer outcomes for consumers, as competition and routes to market will be reduced. Due to the aggregator model PCWs and DCTs experience better click to sale conversion than an individual brand as they have more opportunity to place the business across their panel.

The current arrangements ensure that pay-per-click branded term searches deliver the best result for the consumer that is actively using a search engine to arrive at a brand's website.

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?

AAISL believes that non-resolicitation agreements can contribute to better consumer outcomes in the insurance markets as they enable suppliers to price premiums based on an expectation of future renewals.

Current fee agreements with PCWs are based on the long term value of the sale and take into account anticipated potential renewal value. If non-resolicitation clauses were prohibited, the long term value of PCW business to the supplier would reduce, ultimately leading to higher prices for consumers.

In our experience, non-resolicitation agreements are in place for Motor insurance in addition to Home and energy.

In addition, the introduction of the FCA's renewal transparency legislation on 1st April 2017 requires all insurance providers to provide last year's renewal price alongside this year's along with specified wording on shopping around. This legislation is perceived as a positive move by PCWs who are anticipating an increase in volume as a result.

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?

AAISL has experienced these in both the home and private motor insurance markets. The impact is as set out above.

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)?

AAISL has three areas of concern

- (1) Data clauses that introduce wide MFNs by the back door
- (2) PCWs not accepting liability for their own data breaches
- (3) Lack of reciprocal audit clauses

AAISL has been uncomfortable around clauses which we feel could lead to wide MFNs by the back door. For example, this could occur where a PCW/DCT offers a supplier extra data in return for an agreement to not offer more favourable prices on other PCWs/DCTs. AAISL has not entered into agreements of this nature as we believe this can have the effect of creating MFNs by the back door. As noted above, our view is that MFNs should be prohibited in their entirety, and this prohibition should extend to all practices that could also operate like MFNs.

We have been unable to secure contractual clauses with some PCWs/DCTs that clearly indicate liability for consumer detriment should PCWs make errors in handling of customer data (data mappings).

There have been several instances of PCWs/DCTs incorrectly handling customer inputs and passing mis-information to suppliers, and of PCWs/DCTs displaying incorrect pricing information to consumers. This can result in consumers not having adequate insurance cover in place.

As explained in question 5 above, we have experienced situations where some PCWs/DCTs have refused to agree clauses requiring them to accept liability for their own errors.

AAISL believes there should be clearer rules to ensure that PCWs and DCTs are liable to consumers for mistakes made by PCWs and DCTs. This would ensure that:

- (1) consumers are not adversely affected, and
- (2) suppliers are not forced to accept liability for mistakes made by PCWs and DCTs.

We have also experience of PCWs and DCTs that refuse to grant the supplier a right of audit over the PCW/DCT (even though the PCW/DCT insists on a right of audit over the supplier). This causes a disadvantage to the supplier, for example in the event of a data breach incidents we would be prevented from auditing the PCW/DCT.

*Unbundling and hollowing out***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?**

Our view is that innovation on PCWs/DCTs is difficult with the limited opportunity to present information and the, almost, sole focus on price.

Indeed the industry has received some focus on the value for money of add-ons. This is a direct consequence of the PCW/DCT model. Price is ranked on the core product. The core product is marginal as you will only win when you have effectively under-priced. Insurers tend to use ancillary products to help them continue to be financially viable.

We have a strong and trusted brand, associated with motoring, and yet circa [REDACTED]% of motor business, written on a PCW/DCT, comes from the top position based on price.

We understand that for lesser known brands an even higher proportion of their business comes from being in top position. This strongly indicates consumers are not looking at what they are buying, just the price.

There is little to no focus on product comprehensiveness, claims handling approaches, or service promises. In this context product innovation is suppressed and we believe that compulsory excesses have increased (though we don't have evidence to substantiate this). Again, customers are encouraged to purchase based on the marketing promotion they will receive, trivialising the importance of a serious purchase.

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?

Although DCT's/PCWs have moved to implement better information on product including reviews and ratings (using Defaqto product feeds and ratings) the motor and home insurance comparison is very much still a Price Comparison market with all result screens defaulting to display by price, listing cheapest to most expensive.

This is evidenced by the volume of clicks from price comparisons websites coming from the top position – currently [REDACTED]% of all clicks for motor insurance come from first position. This volume reduces to circa [REDACTED]% for clicks obtained from quotes in second position.

This has even flowed through to the PCW/DCT of the FCA guidance on add-on products. Where these products are selected again the price is the defining factor. This means that the comparison isn't always in the consumers' best interest as the levels of cover presented to them can vary massively in terms of quality and breadth of cover.

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?

In AAISL’s view the crucial factor in the home and motor insurance markets is ensuring fuller product comparison. For PCWs and DCTs to truly provide good consumer outcomes they need to enable a proper comparison across product features, not just price, so consumers can select products that provide an appropriate level of cover to meet consumers’ insurance needs

In our view the lack of response by PCWs and DCTs to the FCA’s add-ons recommendation by the due date is an indicator that recommendations from the regulator are not being applied consistently and some PCWs and DCTs have still not changed their journey.

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?

AAISL supports a robust regulatory framework that provides appropriate consumer protections and ensures a consistent approach by suppliers.

The home and private motor insurance market is heavily regulated, and AAISL believes that PCWs and DCTs who introduce home and private motor insurance customers to suppliers should be subject to an equivalent level of regulation as suppliers who distribute products through other distribution channels.

In relation to PCWs and DCTs that operate across multiple sectors, AAISL does not believe uniform regulation is appropriate. Taking insurance as an example, PCWs and DCTs should be subject to the same standards of regulation as other providers in the insurance market.

Uniform regulation of PCWs and DCT's across multiple sectors would not be appropriate due to differences in products, risk and levels of customer engagement.

Uniform regulation across multi sectors could create an unacceptable risk that PCWs and DCTs might be subject to lower standards or more lenient regulation relative to suppliers using other distribution channels.

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 above, the risk of a cross-sector approach is that PCWs and DCTs might end up being subject to lower standards or more lenient regulation in a specific sector relative to suppliers using other distribution channels.

In the home and private motor insurance markets this risk needs to be avoided so as to ensure that:

- (1) consumers who arrange insurance cover through a PCW or DCT do not receive a lower level of consumer protection than those using other channels;
- (2) PCWs and DCTs do not gain an unfair competitive advantage when compared to suppliers using other distribution channels

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

In relation to insurance, we would expect the FCA to have oversight of PCWs and DCTs to ensure consistency of 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?

No submissions on this question

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

No submissions on this question

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.

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

We are keen for the outcome of any report to encourage the emergence of a more competitive market for insurance distribution – both in pressure for the PCWs and DCTs to compete on fees, and other channels or entrants to be able to compete against them.

AAISL notes that the Update Paper has focussed significantly on competition between PCWs and DCTs. However we feel it is essential that the CMA does not lose sight of the competitive impact that PCWs and DCTs have within the wider markets for the various products and services they compare.

For AAISL, our key areas of operation are private motor insurance and home insurance. As the CMA is aware, there are various methods of distribution within those markets, and not all insurers make products available through DCTs and PCWs.

We have sourced data from [REDACTED] about the amount of business placed through PCWs/DCTs in the motor and home insurance markets. The data shows that in both markets the PCWs/DCTs (referred to as ‘aggregators’) represent the single biggest distribution channel, and their dominance continues to grow. The data is summarised in the following tables:

Motor insurance

[REDACTED]

Home insurance

[REDACTED]

[REDACTED], we feel there should be a free flow of data to ensure transparency.

We are concerned the relative strength of PCWs and DCTs has given them an unfair advantage in commercial negotiations. PCWs and DCTs have become very strong, for example demanding, without substantiation, significant fee increases, and their market dominance means negotiations have been difficult. PCWs and DCTs shouldn’t be allowed to have too much market share and excessive power. The balance of power between PCWs and DCTs and other suppliers in relevant markets needs to be shifted to achieve a more competitive market with fairer outcomes for customers.

We believe it is essential that a level competitive playing field is achieved between providers operating through PCWs and DCTs and those operating through other channels such as direct distribution or brokers.

We urge the CMA to focus on competition in the insurance market (and other relevant markets) as a whole, and not to confine their work to PCWs/DCTs alone.

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

Yes
(please delete as appropriate)

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
Competition and Markets Authority
7th floor
Victoria House
37 Southampton Row
London
WC1B 4AD**