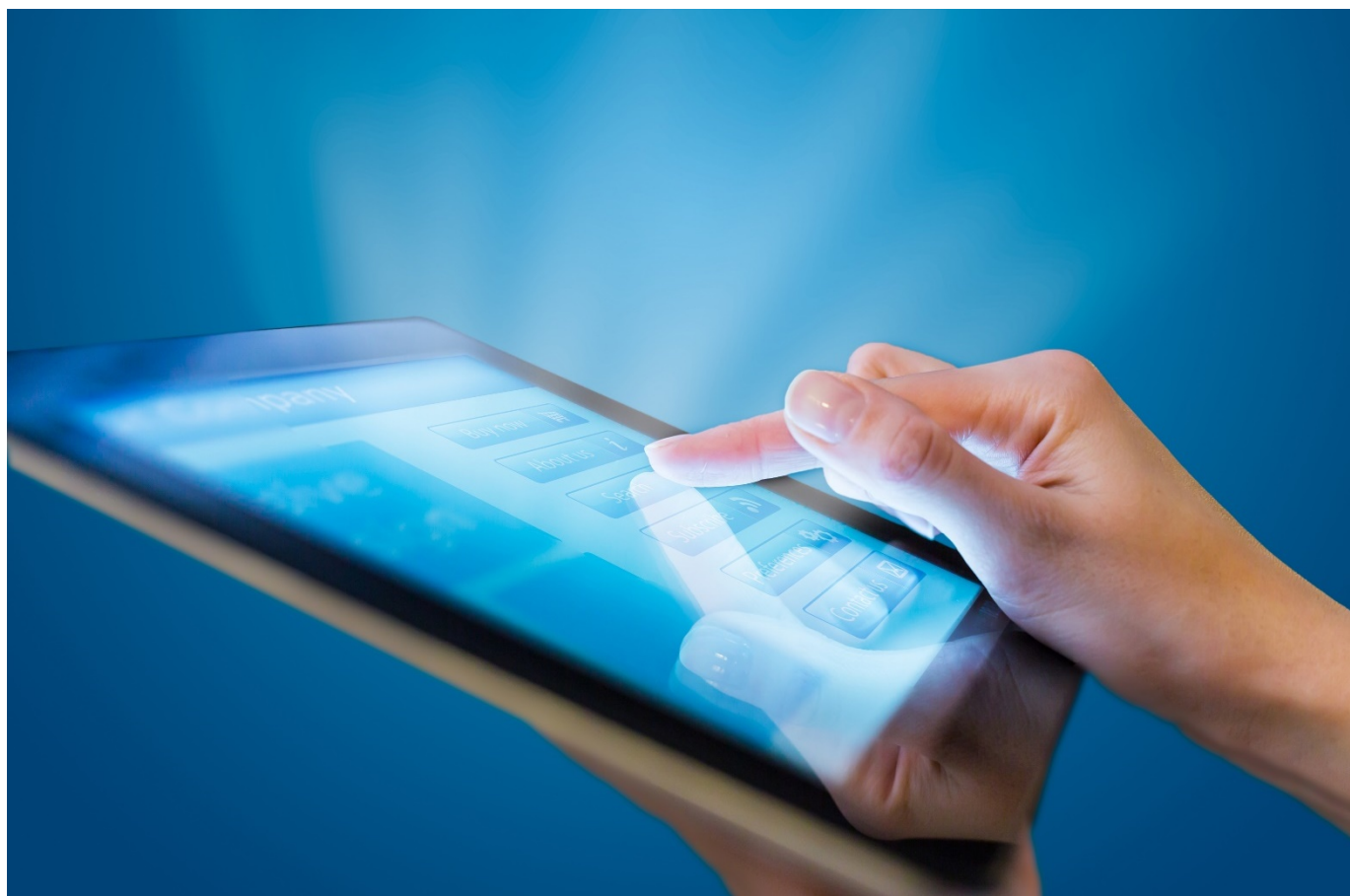


Digital comparison tools market study

Final report

Paper E: Competitive landscape and effectiveness of competition



26 September 2017

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1. Introduction

- 1.1 Digital Comparison Tools (DCTs)¹ offer a number of consumer benefits, including facilitating shopping around and switching between providers, which can directly benefit consumers and can also strengthen competition between suppliers. The benefits from increased supplier competition are most likely to be passed on to consumers in the form of more choice, lower prices and better value if there are multiple DCTs competing effectively.
- 1.2 In this paper, we look at three aspects of competition. First, in Chapter 2 we look at how DCTs compete with each other and other sales channels (including suppliers' direct channels) and present our analysis on the market position of the main DCTs in the UK and the effectiveness of competition between DCTs. As part of this analysis, we consider the negotiations between DCTs and suppliers and the balance of negotiating power in our case study sectors and touch on how consumers use DCTs and other sales channels (consumer single-homing and multi-homing).
- 1.3 Then, in Chapter 3, we turn to agreements that are likely to or could limit the strength of the competitive constraint on and between DCTs; namely, wide and narrow retail most favoured nation clauses (MFNs).²
- 1.4 Finally, in Chapter 4, we consider other practices and agreements that may affect DCTs' effectiveness in bringing benefits to consumers ('hollowing out', non-brand bidding and negative matching agreements and non-resolicitation agreements). The appendices to this paper contain more detail on (i) the way consumers use DCTs (single-homing vs multi-homing); (ii) our econometric analysis in relation to wide MFNs and DCT commissions; and (iii) the acquisition strategies of suppliers.³

¹ We define DCTs as 'digital intermediary services used by consumers to compare and potentially to switch or purchase, products or services from a range of businesses'.

² These clauses are sometimes referred to as price parity clauses.

³ A supporting Glossary is [available on our case page](#).

2. How do DCTs compete?

- 2.1 In this chapter we first set out the competitive landscape in which DCTs operate and describe how they try to attract suppliers and consumers.
- 2.2 The prices and other characteristics of the products and services that DCTs compare are set by the suppliers that list on DCTs. In that sense, DCTs do not directly set the prices that consumers pay but they can influence the offers listed via their negotiations with suppliers.⁴ Most (but not all) DCTs do not charge consumers for using their comparison services. Instead, they typically charge a commission fee to suppliers for referrals or transactions made as a result of a consumer using the DCT.⁵ Therefore, the two main processes that affect outcomes for consumers are:
- (a) DCTs competing to attract consumers by investing in marketing, providing a good comparison service, offering low prices and, in some cases, rewarding consumers for using their site; and
 - (b) The negotiations between DCTs and suppliers and the impact of negotiations on offers to consumers (eg lower prices as a result of lower commissions or exclusive deals).
- 2.3 We discuss these two processes, including the factors that determine the strength of competition between DCTs and the balance of negotiating power between DCTs and suppliers, as well as the likely effect of negotiating power on outcomes in the market. The factors we consider include the size and shares of supply of DCTs, the importance of DCTs to suppliers and vice versa, the availability and efficiency of alternative sales channels that suppliers can use, and the way consumers use sales channels (ie single-homing or multi-homing). We then assess where the balance of negotiating power appears to lie in our case study sectors before concluding on the effectiveness of competition between DCTs.

Competitive landscape

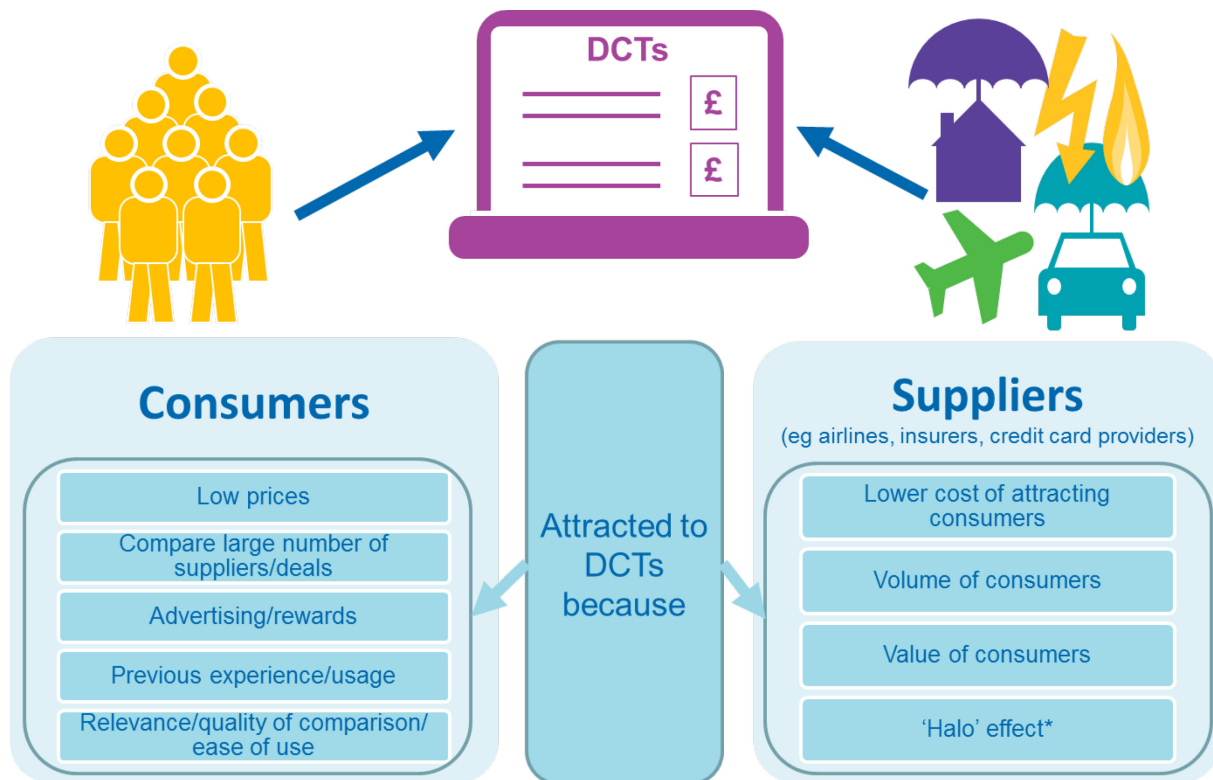
- 2.4 Like other online platforms, DCTs operate in so-called 'two-sided' markets, bringing consumers and suppliers together. This means DCTs need to attract both consumers and suppliers to use their sites for their platform to be

⁴ This contrasts with a retailer, who sets the prices for customers who use its shop/site.

⁵ Some new DCTs have entered with alternative business models, such as digital concierges and automatic switching services, some of which charge the consumers for finding and switching them to a better deal. However, this is a fairly recent development.

commercially successful. Figure 2.1 sets out the respective propositions that DCTs need to present to attract both consumers and suppliers.

Figure 2.1: DCTs operate in a two-sided world



Source: CMA analysis based on consumer survey and information from stakeholders.

* Halo effect is when a supplier benefits from being associated with its surroundings. It can come about because of the other suppliers that appear on the DCT or because appearing on the DCT itself provides credibility to the supplier.

2.5 Both sides of the market can decide whether to single-home (ie use only one DCT) or multi-home (ie use more than one DCT),⁶ as the transaction costs⁷ of shopping around/appearing on multiple sites are relatively low.⁸ However, given that, in practice, a significant proportion of consumers single home (see paragraphs 2.54 to 2.55), most suppliers choose to use multiple DCTs⁹ in

⁶ Consumers may also use other sales channels, such as suppliers' websites.

⁷ Transaction costs are the costs that a user incurs for using a DCT. This may include access charges, time (mainly consumers), or integration costs (suppliers only).

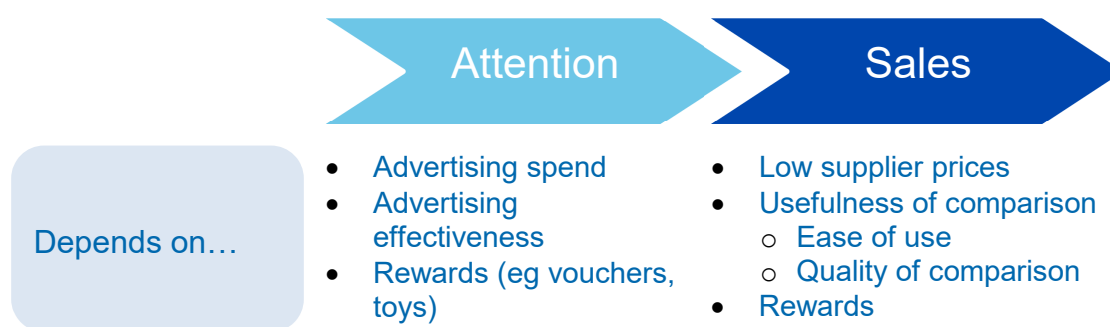
⁸ The main DCTs do not charge customers to access their sites. Suppliers do not pay a listing fee to appear on these DCTs, but generally only pay per acquisition or per click. Some DCTs, however, have conversion floors in place which might require a minimum commission payment from suppliers.

⁹ Data from the large DCTs and suppliers suggest that the majority of suppliers that list on DCTs, do so on multiple DCTs in all our case study sectors. However, not every supplier may appear on every DCT. There are some transaction costs (such as system integration costs) which means that suppliers may choose not to list on every single DCT but will tend to list on every major DCT. For example, a supplier in our workshops told us that there is a fixed cost, in terms of management, to signing up to DCTs, which meant it would not want to sign up to all DCTs. In addition, a DCT highlighted that in insurance, due to the need for DCTs and suppliers to exchange detailed data to get a bespoke quote, suppliers are less inclined to invest in the systems integration if the DCT cannot provide volume. Ultimately, suppliers are likely to weigh up the transactions costs of dealing with an additional DCT and the additional sales that the DCT would bring.

order to get access to as many consumers as possible.¹⁰ This means that DCTs are not primarily competing with other DCTs for a supplier to exclusively list on their site, and not on other DCTs. Rather, DCTs make efforts to sign up suppliers and provide a comprehensive panel, and they may also compete for suppliers to put special deals on their site as opposed to other DCTs.

- 2.6 Most DCTs do not charge consumers for their comparison service.¹¹ Instead, they earn their revenue from charging suppliers commission for generating leads (which may either be remunerated on referral or click-through, application or conversion). DCTs therefore have an incentive to present a range of offers that are likely to increase consumer interest and lead consumers to click-through or complete a transaction via the DCT. However, consumers also need to trust a DCT, and the deals that they are offered to engage with that DCT.¹² The factors that affect DCTs' ability to attract and sell to consumers are outlined in Figure 2.2.

Figure 2.2: DCTs need both to attract consumers to their sites and turn attention into sales



Source: CMA analysis.

Notes: other factors that may drive attention to a DCT are any access price charged to consumers and site content. However, these are likely to be less important.

- 2.7 DCTs are not just competing with one another to attract consumers but may also be competing with other channels including a supplier's direct sales channel. While DCTs offer a potentially useful and efficient sales channel,¹³ there are specific benefits to getting consumers to 'buy direct' that act as an incentive for the supplier to attract consumers to their own sales channels. When consumers buy through the direct channel, the supplier would not have

¹⁰ This is known as a competitive bottleneck. See Armstrong M. (2006), Competition in two-sided markets, RAND Journal of Economics, Vol. 37, No. 3, Autumn 2006, pp. 668–691.

¹¹ In two-sided markets, one side tends to 'subsidise' the other side. The determinants on which side will be subsidised include (i) which side has the most outside options/most elastic demand; (ii) which side provides the biggest benefit to the other side; and (iii) which side is least willing to multi-home. If these factors lead to consumers being subsidised currently, it is likely that business models which charge suppliers rather than consumers will continue to persist.

¹² As noted in Figure 2.4 and Figure 2.6, trust is one of the main reasons why consumers used a particular DCT.

¹³ See Appendix 3.

to pay commission to the DCT, may be able to develop a stronger relationship with consumers and boost retention rates, and face less direct competition from other suppliers.

Competition for consumers

2.8 In this section, we start by considering how consumers choose which DCTs to visit, drawing on our consumer survey, before considering the main ways in which DCTs compete with one another in practice.

How do consumers choose which DCT(s) to use?

2.9 Consumers want to use DCTs for a variety of reasons, including saving money and to save time in comparing a large number of suppliers (see Figure 2.3). Our qualitative research found that comparison sites were not only seen to save consumers the time and effort of having to check individual suppliers' websites to get a good deal but also as a way of getting a sense of the market quickly.¹⁴

Figure 2.3: Reasons consumers use comparison sites



Source: Kantar Public survey. M6. Why did you use [a] comparison site on this occasion? Please select all that apply.
Base: Consumers who have shopped around using a comparison site in the last three months (1,668).

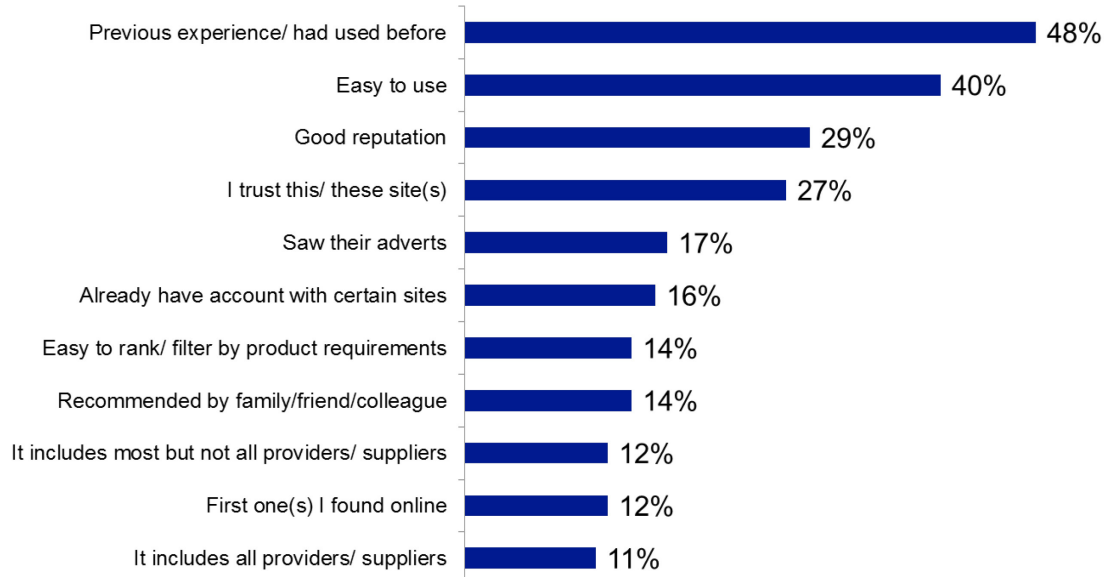
2.10 In our research, 44% of recent users said that they always used the same DCTs to shop around for a particular product, indicating a degree of consumer loyalty.¹⁵ Previous good experience of the DCT and a positive reputation

¹⁴ Page 94 in Kantar, [Digital Comparison Tools: Consumer Research Final Report](#), March 2017.

¹⁵ Page 104 in Kantar, [Digital Comparison Tools: Consumer Research Final Report](#), March 2017.

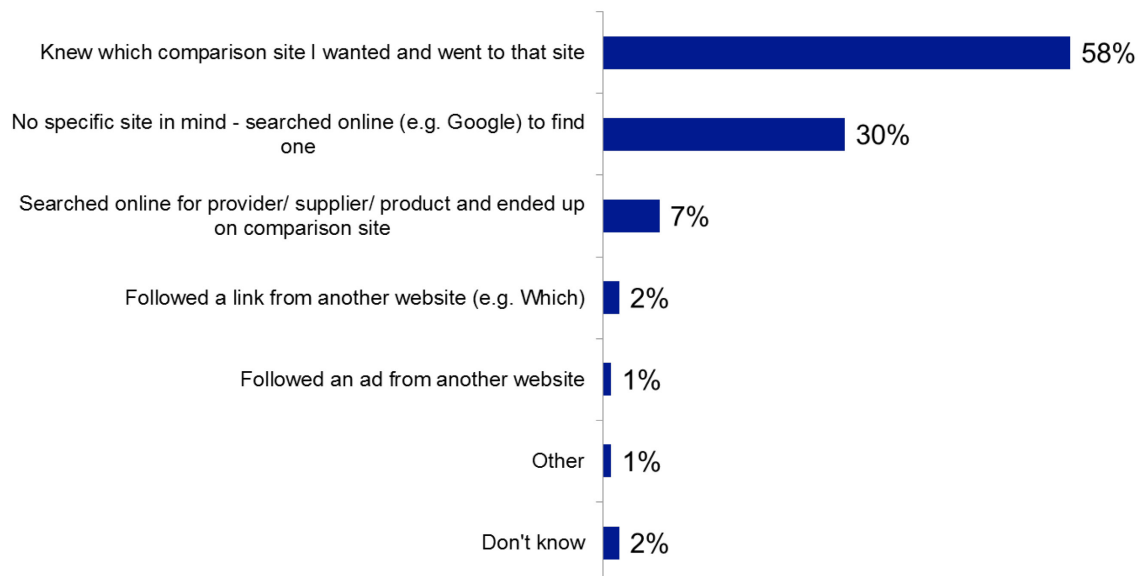
appear to be among the most important factors in choosing a DCT (see Figure 2.4) and the majority of consumers knew which DCT they were going to visit (see Figure 2.5). This was particularly true of consumers that had used DCTs before.¹⁶

Figure 2.4: Reasons why consumers used a particular DCT



Source: Kantar Public survey. M12. How did you decide which particular site(s) to use?
Base: All who have used a comparison site in the last 3 months (1,668)

Figure 2.5: How first time DCT users and returning DCTs users ended up on a particular DCT



Source: Kantar Public survey. M11. Thinking about the [first] comparison site you visited when you last compared [PRODUCT], which of these best describes how you ended up on it?
Base: All who have used a comparison site in the last 3 months: First time using DCT (314); Had used DCT before (1,339).

¹⁶ Page 102 in Kantar, *Digital Comparison Tools: Consumer Research Final Report*, March 2017.

2.11 Among those who used only one comparison site on the most recent occasion, four in ten (39%) said that they did so because they got everything they needed there. Around three in ten said that the decision was a result of having used the site before (32%), that the site was easy to use (31%), that they trust the site (29%) and that there would be too much time or effort in using more sites (28%) (see Figure 2.6).

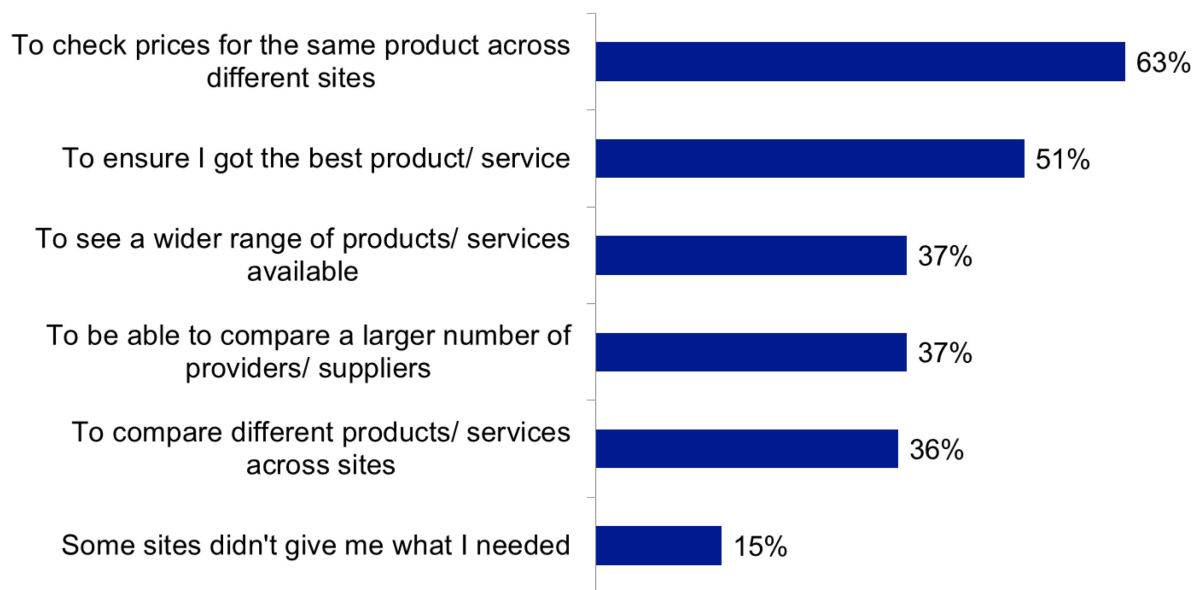
Figure 2.6: Reasons why consumers used only one DCT



Source: Kantar Public survey. E3. Is there any particular reason why you used just one comparison site on this occasion?
Base: All who used just one comparison site on most recent occasion shopping around (627)

2.12 For those consumers who used more than one DCT, the majority did so to check prices or ensure they got the best deal (see Figure 2.7). Their main reasons for purchasing through a particular DCT were that they found the product/offer they wanted or the 'best' product on that DCT and that the DCT was easy to use (see Figure 2.8).

Figure 2.7: Reasons why consumers used more than one DCT



Source: Kantar Public survey. E1. Why did you use more than one comparison site on this occasion?
Base: All who used more than one comparison site on most recent occasion shopping around (1,041)

Figure 2.8: Reasons why consumers that used more than one DCT purchased from a particular DCT



Source: Kantar Public survey. P7. How did you decide which comparison site to [purchase / take out a credit card] from?
Please select all that apply.
Base: Consumers who shopped around using a comparison site in last three months, visited multiple site and made purchase on a comparison site (428)

2.13 Our qualitative research found loyalty to one or two comparison sites was strong for some users. As the functionality of each site is different, users were reluctant to use new sites after they had spent time learning how to use one. Some had set up user accounts with particular comparison sites and were reluctant to enter their details on other sites. Others, especially parents of

young children, were highly motivated by the advertising, free gifts (eg cinema tickets) and toys offered by particular comparison sites.¹⁷

- 2.14 In our qualitative research it was a relatively common view that comparison sites in general had very little difference between them in terms of the offers and savings to be made. Less commonly, users had noticed greater differences in savings and were motivated to use a greater number and variety of comparison sites. This is supported by the quantitative research which found that of those consumers who used multiple DCTs, 40% thought results were largely the same, 53% thought there were some differences and only 4% thought there were lots of differences between DCTs.¹⁸
- 2.15 Overall our consumer research indicates that previous use and experience of using a DCT is important in driving decisions about which DCTs consumers use. For consumers using more than one DCT, the relative prices and offers on each DCT are also important, indicating that to attract these customers, DCTs need to provide good offers to convert traffic into sales. However, even amongst consumers that use more than one DCT, there is a perception that there are not large differences between DCTs.

How do DCTs compete in practice?

- 2.16 DCTs compete with one another as well as with other sales channels in three ways:
- (a) **Marketing and rewards:** DCTs seek to attract consumers through their marketing activity. This includes traditional brand advertising through TV and radio as well as online channels such as paid-for search and email. Marketing may include the promise of rewards if consumers purchase through the DCT. It may also include claims about the level of savings, so the strength of advertising claims can depend on the prices suppliers provide to the DCT.
 - (b) **Usefulness of comparison service:** DCTs need to provide a good comparison service in order to attract consumers to their site, convert traffic into sales and encourage repeat usage.
 - (c) **Low prices, exclusive offers and discounts:** A key factor, especially in converting interest to sales, is the price charged to consumers. DCTs may seek to engage with suppliers to make exclusive offers to consumers,

¹⁷ Page 116 in Kantar, *Digital Comparison Tools: Consumer Research Final Report*, March 2017.

¹⁸ Page 113 in Kantar, *Digital Comparison Tools: Consumer Research Final Report*, March 2017.

such as discounts versus other channels or only making a product available through that DCT, often in return for lower commission fees.

- 2.17 The three factors above make up the competitive offering to customers. However, a major component of this is the marketing and rewards. We summarise our analysis on these factors below.

*Marketing*¹⁹

- 2.18 A significant way in which DCTs compete with one another (and with suppliers) for consumers is through their marketing activity. The largest five multi-product DCTs spent £438m on advertising in 2016 which equates to around 46% of commission revenue. Advertising expenditure has been growing by around 10% per year since 2014.²⁰
- 2.19 DCTs tend to employ two types of marketing:
- (a) Offline marketing: This is primarily brand and awareness building and is considered a distribution cost by most DCTs. It can include rewards.²¹
 - (b) Online marketing: This is primarily search/response advertising and is considered a cost of sales by most DCTs.
- 2.20 Since 2012, DCTs that have increased their advertising expenditure most, whether online or offline, have also seen the largest increases in sales to consumers.
- 2.21 Campaigns data from DCTs showed DCTs are primarily promoting their brand to consumers in their offline marketing. Marketing campaigns aim to increase brand recognition leading to greater numbers of visitors to the DCT. There is also a prominent promotion of their rewards schemes (eg vouchers and toys). Where there was promotion of a particular product line, this was most likely to be for motor insurance.²²
- 2.22 We also considered the impact of online marketing expenditure, which some DCTs use to support their offline marketing strategy. This has also been increasing over time. However, the proportion of DCTs' sales and online

¹⁹ Analysis in this section is based on data submitted to the CMA by Confused, Comparethemarket, GoCompare, MoneySupermarket and uSwitch.

²⁰ Based on data from Comparethemarket, MoneySupermarket, GoCompare, Confused and uSwitch. uSwitch data only available from 2014. Annual advertising expenditure growth from 2012 for the other four DCTs was 9%.

²¹ Advertising data from DCTs in this section does not include expenditure on rewards.

²² Data from one DCT showed that advertising peaked in January to March and September, which correlates with new car registrations and a likely period of higher motor insurance renewals.

advertising vary by sector. We found that online marketing expenditure was highest in sectors with the highest sales.²³

- 2.23 For the most part, we found DCTs typically spend most of their online marketing expenditure in areas they were traditionally strong; and the DCT with the highest expenditure tends also to have the highest share of sales in that sector. However, in some cases DCTs have sought to expand into other areas by spending more on online marketing.

Usefulness of comparison service

- 2.24 DCTs need to provide a good comparison service in order to attract consumers to their site, convert traffic into sales and encourage repeat usage. DCTs have told us that the comparison service relies on a number of factors including:

- (a) Ease of use: including navigating the website, the collection of data, speed of comparison results, and ability to transact easily on the DCT or supplier sites.
- (b) Quality of comparison: including both the number of suppliers and the quality of their offering and relevance of results.²⁴

- 2.25 Our consumer survey supported these findings. It found that 54% of consumers used DCTs to compare a number of suppliers (see Figure 2.3), which suggest that quality of comparisons is important to a substantial proportion of users. In addition, it found that ease of use was the second most important reason for using a particular DCT (see Figure 2.4),

Low prices, exclusive offers and discounts

- 2.26 DCTs seek to compete with one another for exclusive deals and good offers from suppliers so that they can offer low prices to consumers. The final price to consumers depends on two factors: (i) the intensity of competition between suppliers on a DCT; and (ii) the intensity of competition between DCTs, which in turn affects negotiations between the supplier and a DCT. We discuss these in turn.

²³ The notable exceptions to this were in energy and broadband. In both cases, visits to certain DCTs are much higher but the DCTs are less able to convert visits into sales.

²⁴ While having a good range of suppliers is important, few consumers in our survey considered that DCTs covered all suppliers and a large majority considered the current coverage level sufficient for their needs (see Pages 63–66 in Kantar, [Digital Comparison Tools: Consumer Research Final Report](#), March 2017).

- *Competition between suppliers*

- 2.27 Where suppliers compete vigorously, prices to consumers are likely to be constrained. This is because increases in prices are likely to lead to a loss of consumers to other suppliers. DCTs have the potential to increase competition between suppliers because they allow consumers to compare a number of suppliers concurrently. DCTs want to have a sufficiently large panel of suppliers to ensure consumers are being offered a wide range of choice and a good deal.
- 2.28 Evidence from the PMI market investigation²⁵ and our market study²⁶ shows that the price sensitivity of consumers on DCTs is considerably higher than on other sales channels – putting competitive pressure on suppliers. This suggests that prices to consumers will be kept low relative to suppliers' costs.

- *Competition between DCTs*

- 2.29 As noted above, the price paid by consumers is likely to be influenced by the commission fee that DCTs charge to suppliers.²⁷ Commission is in turn determined by the intensity of competition between DCTs which then determines the negotiations between DCTs and suppliers. Suppliers' strength of negotiation depends significantly on which DCTs consumers use (including if they use more than one) and the reasons they choose to use the DCT(s). If consumers' choice of DCT is based primarily on non-price factors (eg based on the rewards offered by the DCT), suppliers have less ability to steer consumers between one DCT and another by offering better deals on one DCT than on another. In addition, if a significant proportion of consumers only use one DCT, a supplier has limited ways of attracting consumers through other sales channels, including other DCTs (See Figure 2.9). This is likely to lead to increases in the commission fee and prices to consumers.²⁸

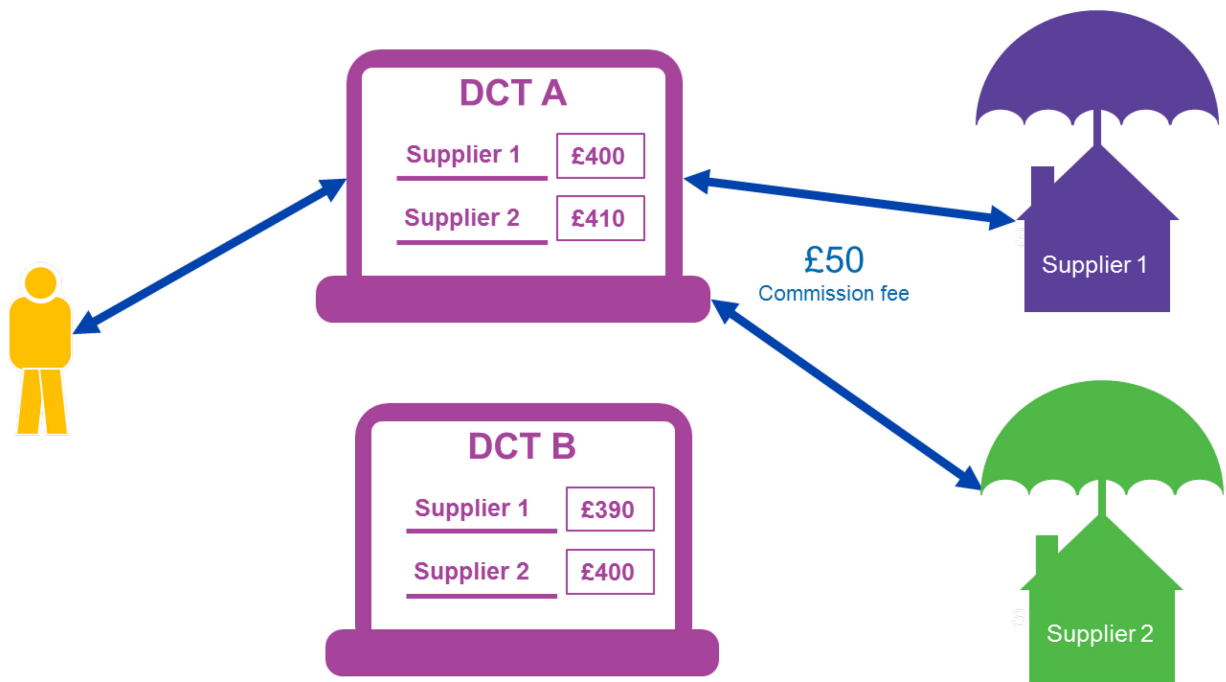
²⁵ See CMA, [Private motor insurance market investigation final report](#), September 2014, paragraphs 6.66 and 8.6.

²⁶ We gathered information on the price elasticity of demand on different sales channels from a number of suppliers.

²⁷ This is because the commission fee paid by the suppliers is ultimately the unit cost of selling on a DCT. Hence changes in the commission fee are likely to be passed on to the prices they present on the DCT. See: RBB Economics, [Cost pass-through: theory, measurement, and potential policy implications - A Report prepared for the Office of Fair Trading](#), February 2014.

²⁸ As well as increasing consumer prices, higher DCT fees may reduce supplier investment/innovation.

Figure 2.9: Impact of limited shopping around on prices for consumers

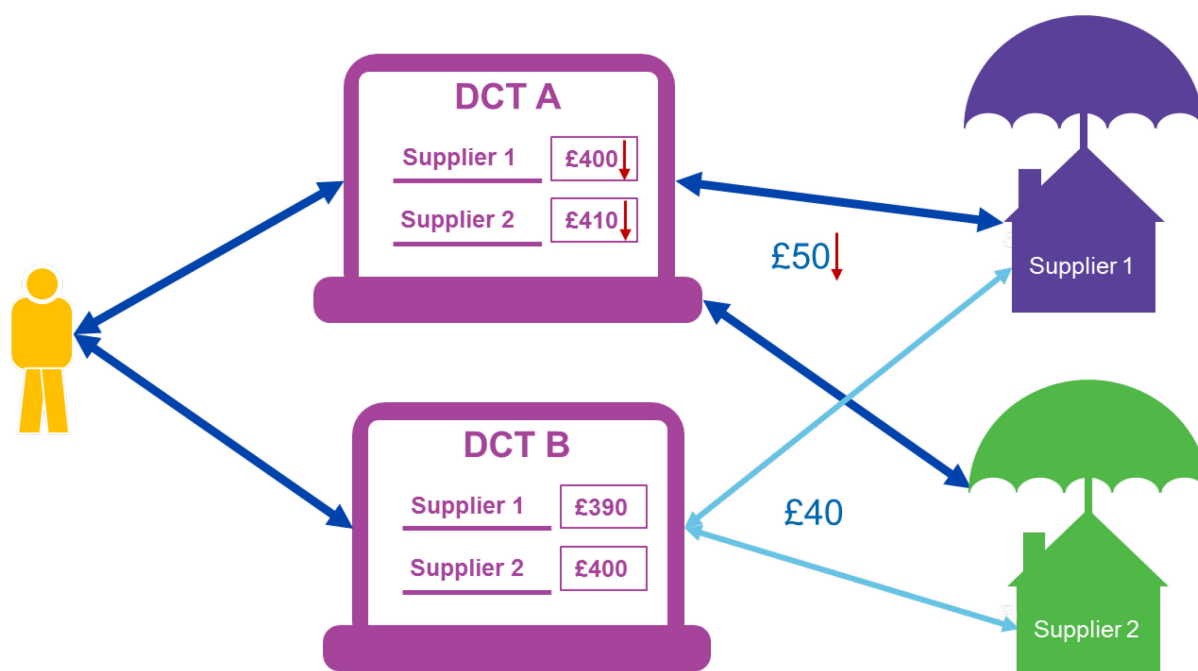


Source: CMA.

2.30 However, if consumers use multiple DCTs, then this has two effects (see Figure 2.10):

- (a) DCTs will want to ensure that the prices they display are competitive compared with other DCTs, which may result in them lowering the commission fee to incentivise suppliers to lower their prices.
- (b) Suppliers have alternative options, leading to a stronger negotiating position and potentially reduced commission fee.

Figure 2.10: Impact of consumers using multiple DCTs on prices and commission fees



Source: CMA.

- 2.31 There is potentially a trade-off between a higher commission fee for the DCT and lower prices for the consumer: a DCT wants to earn a high commission on each sale made through the DCT (which may also increase supplier prices) as this increases its revenues, but also wants to incentivise suppliers to set a low price to convert more sales. To the extent that there is such a trade-off, the DCT's focus will depend on the extent to which consumers compare the DCT with other DCTs and sales channels.
- 2.32 Our consumer research suggests that a significant proportion of consumers tend to choose DCTs on the basis of which ones they have used previously and may therefore be less likely to be choosing on the basis of which DCT provides the lowest prices.²⁹ In addition, although consumers that use multiple DCTs are often seeking the best deal, they do not consider there to be large differences between them³⁰ and DCTs themselves do not appear to be focusing their marketing messages on their relative pricing performance (ie the prices they display) to other DCTs (see paragraph 2.21).
- 2.33 This weakens the trade-off for DCTs between higher commission fees and lower prices for consumers. As a result, DCTs are likely to be seeking an increase in commission fees to suppliers,³¹ whereas a supplier will be seeking

²⁹ See paragraph 2.10.

³⁰ In some sectors, this may be due to the presence of wide MFNs.

³¹ There is likely to be a limit in the extent that DCTs increase their fees. This is because large increases would lead to the DCT channel being relatively unattractive for consumers and suppliers if prices/commission fees increased, especially where there are suppliers that do not use DCTs.

to minimise them. The level of commission fees is affected by the negotiations between DCTs and suppliers (discussed further in paragraphs 2.37 to 2.65).

Summary on competition for consumers

- 2.34 The largest DCTs in the UK have been competing vigorously with each other in terms of marketing and advertising to attract consumers, and in some cases they have also been competing on rewarding consumers for purchasing through their sites.
- 2.35 Consumers have a variety of reasons for choosing which DCT to use. Those who only use one DCT appear to be choosing on the basis of previous use and good reputation of the DCT. As there is a significant number of consumers that only use one DCT, this appears to drive how DCTs compete for consumers, which is primarily through marketing, which focuses on the DCT brand.
- 2.36 However, as there are consumers that use multiple DCTs, and those consumers appear to do so on the basis of getting the best price, there are still incentives for DCTs to offer the best deals to consumers.

Factors affecting competition between DCTs and negotiating power between DCTs and suppliers

- 2.37 As outlined above, a significant factor affecting prices paid by consumers on DCTs is the outcome of the negotiation between DCTs and suppliers. This depends primarily on whether the DCT and the supplier have credible alternatives they can exercise if an agreement is not favourable to that party. This is closely linked to how strongly DCTs compete with each other (and suppliers' direct channels) and to the strength of competition between suppliers (see paragraphs 2.26 to 2.33). Figure 2.11 summarises the potential alternatives for each party in negotiations, and the factors affecting the credibility of their alternatives.

Figure 2.11: DCTs' and suppliers' alternative options in negotiations and what affects the credibility of their alternatives



Source: CMA.

Notes: Dimming is when a supplier is listed by the DCT but the listing has the appearance of looking unavailable so it is unattractive to click through to the supplier's site.

2.38 Below, we assess the factors that affect the strength of the alternative options for DCTs and suppliers, first assessing the factors that affect the importance of suppliers to DCTs and then assessing the factors that affect the importance of DCTs to suppliers.

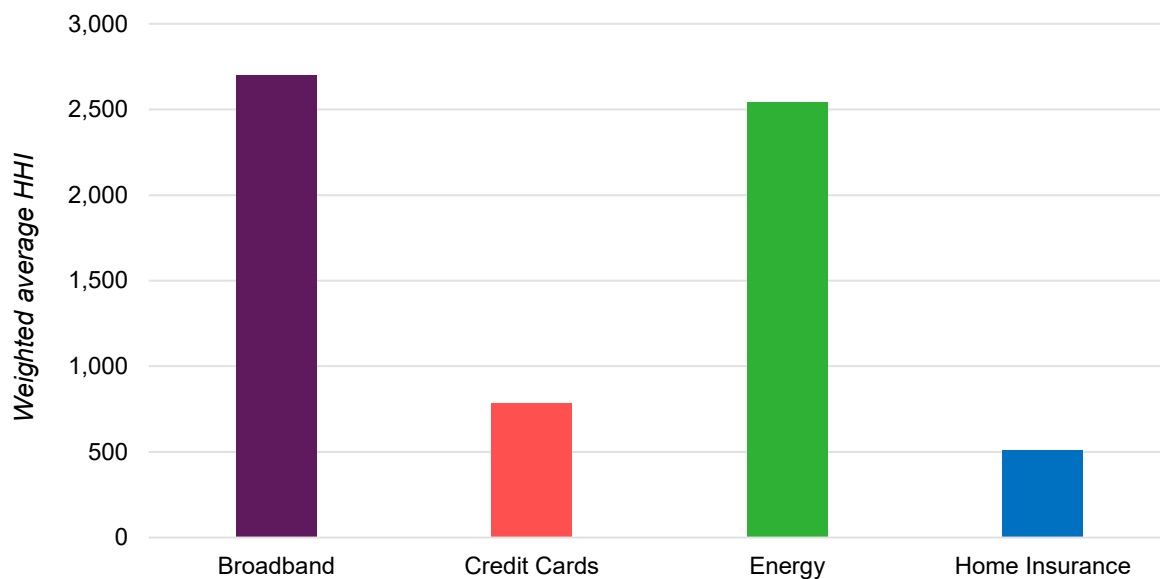
Importance of suppliers to DCTs

2.39 In Figure 2.11 we identified that DCTs in the sectors we looked at are in a stronger negotiating position if a supplier's brand is not important for consumers or if there are a number of other strong brands available. Concentration of suppliers is one measure of the strength of competition in the relevant sectors and is an indicator, albeit imperfect, of how important suppliers are to DCTs. In markets with a low concentration of suppliers, we would generally expect DCTs to have a stronger negotiating position because there are potentially many other suppliers a DCT can contract with.³²

2.40 In Figure 2.12 we see that concentration of suppliers on DCTs in our focus sectors is lowest in home insurance and credit cards and highest in broadband and energy. This corresponds with data on concentration of the largest suppliers in the relevant sectors in Figure 2.13 below.

³² In addition, where suppliers are relatively undifferentiated, this is likely to strengthen a DCT's negotiating position.

Figure 2.12: Indicative concentration (HHI) measures³³ of suppliers on DCTs in broadband, energy, credit cards and home insurance (2015/16)³⁴



Source: CMA analysis of responses to information requests to DCTs.

(1) Figure shows average Herfindahl-Hirschman Index (HHI) based on sales of suppliers on DCTs weighted by indicative DCT shares of supply based on the volume of sales in each sector from the second quarter in 2015 to the first quarter in 2016.

(2) For credit cards and home insurance suppliers with shares of supply greater than 1% we have aggregated the data to corporate group level, whereas we have not aggregated the data for suppliers with shares of supply less than 1%. This means that some shares of supply are underestimated and therefore our estimates of HHI may be underestimated in these sectors. However, we do not think this has a material impact.

(3) For broadband and energy all suppliers were aggregated to corporate group level.

(4) For broadband this includes: Broadbandchoices, Confused, GoCompare, MoneySupermarket, Simplifydigital (including DCTs it provides white-label services to), Comparethemarket, and uSwitch.

(5) For energy this includes: Confused, Comparethemarket, GoCompare, MoneySupermarket, and uSwitch.

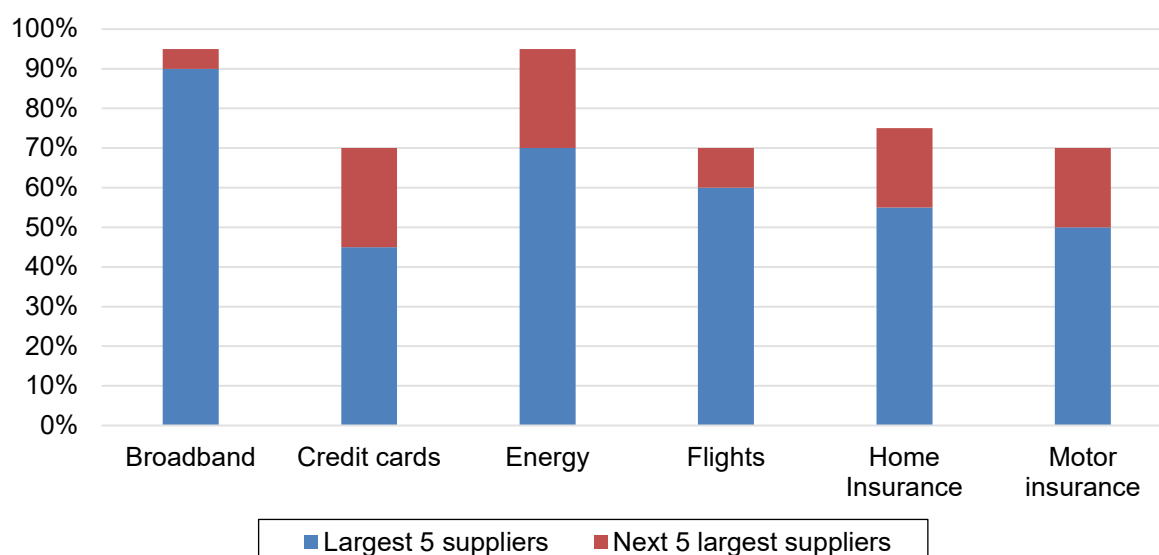
(6) For home insurance this includes: Confused, Comparethemarket, GoCompare, and MoneySupermarket.

(7) For credit cards this includes: Confused, Comparethemarket, MoneysuperMarket, and uSwitch.

³³ Consistent with CMA guidance, any market with an HHI in excess of 2,000 is considered highly concentrated, and any market with an HHI in excess of 1,000 is considered concentrated.

³⁴ We focused on sectors where sufficient data was available to produce the measures.

Figure 2.13: Indicative share of supply of the 5+5 largest suppliers (%)



Source: CMA analysis of: Ofcom, *Communications Market Review*, 2016;³⁵ Mintel, *Credit Cards*, August 2016; CMA, *Energy Market Investigation*, June 2016; and Association of British Insurers (ABI), *General Insurance Company Rankings*, 2014; and data provided by the CAA.

Note: Due to data availability some figures relate to revenue/premiums and others' customers. Flights based on annual terminal passengers. In some markets multiple brands included in this analysis may belong to a larger group. Data has been rounded to nearest 5%.

2.41 Other factors beyond simple concentration may affect negotiating power. For example, the largest supplier in each of these sectors is likely to have more negotiating power than the smallest suppliers, regardless of the importance of DCTs.³⁶ In addition, some suppliers are likely to be essential to list, with two DCTs in the broadband sector telling us that consumers would expect to see key suppliers in the sector and our qualitative research finding that consumers expect the main brands to be listed.³⁷ Key suppliers are likely to be those with a particularly differentiated offering and high brand recognition. For example, we know that some suppliers are listed by metasearch engines (MSEs) even when they do not pay commission.

Importance of DCTs to suppliers

2.42 A DCT's negotiating position vis-à-vis a supplier is likely to be stronger in cases where a DCT is a commercially important sales channel to that supplier as it reduces the credibility of the supplier's threat to de-list from the DCT. The following factors are likely to influence whether a DCT is an important sales channel to a supplier:

³⁵ Full report data 'UK data' on [Ofcom's CMR data webpage](#).

³⁶ This is supported by results from our quantitative analysis of the impact of removal of wide MFNs where an increase in the size of a supplier by 1% led to a decrease in commission fees by 2%. See Appendix 2, Table 3.

³⁷ See page 79 in Kantar, *Digital Comparison Tools: Consumer Research Final Report*, March 2017.

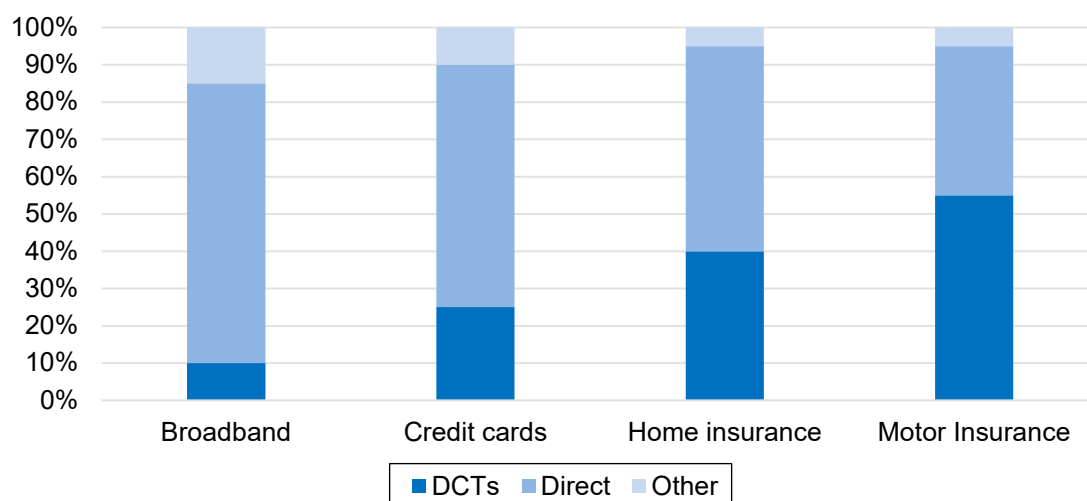
- (a) Significance of DCTs overall as a sales channel.
- (b) Significance of an individual DCT to a supplier.
- (c) Ability to replicate sales on other sales channels.

2.43 We analyse each of these factors below.

Significance of DCTs overall as a sales channel

2.44 Where DCTs collectively are an important sales channel to the supplier, this will indicate that a DCT's negotiating position is strong.³⁸ Figure 2.14 shows that DCTs are a more important sales channel in motor and home insurance than in broadband and credit cards.³⁹ In broadband and credit cards, we would therefore expect suppliers to be in a stronger negotiating position, even where an individual DCT has a larger share of total DCT sales. In flights, we have been told that MSEs are able to charge higher commissions to OTAs than to airlines because OTAs are more reliant on MSEs than airlines.

Figure 2.14: The significance of DCTs as a sales channel 2013-2015



Source: CMA analysis of data received from suppliers and information from the PMI report.

Note: Based on a simple average of supplier acquisition channels for new business (four suppliers in broadband, six suppliers in credit cards and nine suppliers in home insurance). Each channel is rounded to the nearest 5%. Suppliers provided the proportion of new customers acquired by different channels. The data has not been weighted by volume or revenue and relates to a small number of large suppliers which list on DCTs.⁴⁰

³⁸ If DCTs are an insignificant sales channel, then an individual DCT would be unlikely to have much negotiating strength. However, if DCTs are a significant sales channel then a DCT with a larger share of sales is likely to be in a strong negotiating position (see paragraphs 2.46–2.48).

³⁹ In the energy sector, the CMA found that in 2015, the proportion of total acquisitions to the Six Large Energy Firms facilitated by a PCW ranged from close to zero to around 70% of gas and electricity acquisitions. See CMA, [Energy market investigation: Final report](#), June 2016, paragraph 8.163.

⁴⁰ Data from an industry expert shows that the proportion of sales through DCTs is higher in home insurance and motor insurance than our sample of data indicates.

- 2.45 In addition, where consumers associate more with DCTs' brands than suppliers' brands, this is likely to strengthen DCTs' and weaken suppliers' negotiating positions.⁴¹ One supplier said that its research showed that it is important to consider who consumers think they are buying from. In that respect the supplier suggested that in insurance a lot of people think they are buying from a DCT, so they see their relationship as being with the DCT rather than with the supplier brand.

Significance of an individual DCT

- 2.46 Suppliers are in a stronger negotiating position if there are many other DCTs they can use as an alternative to reach consumers. Based on our analysis of DCT sales volume data in three of the four case study sectors,⁴² the largest DCT has significantly more volume than other DCTs.⁴³ In energy, two DCTs accounted for around 70% of energy supplier switches facilitated by DCTs in 2014.⁴⁴
- 2.47 The largest DCTs in each of these sectors are therefore likely to have more negotiating power than other DCTs in that sector.⁴⁵ They are likely to be particularly strong in sectors where DCTs are a significant sales channel, such as motor and home insurance. This is consistent with our analysis of commission data in motor and home insurance where commissions have been following an upward trend in both sectors.⁴⁶ The increase in commission is greatest for [X].
- 2.48 In addition, DCTs which have developed higher brand loyalty from consumers are likely to be more important to suppliers.⁴⁷ Analysis from one DCT showed that consumer bonding with one DCT's brand (a measure of consumer brand loyalty) was significantly higher than for other DCTs, suggesting that it will be in a stronger negotiating position vis-à-vis other DCTs. Brand research shows

⁴¹ This is more likely to occur where the underlying product/service is homogenous, such as energy.

⁴² Our case study sectors are home insurance, credit cards, broadband and flights.

⁴³ Comparable data is not available for flights.

⁴⁴ This is based on data received from ten PCWs (uSwitch, [X], Confused.com, Compare the Market, MoneySuperMarket, Switch Gas and Electric, Gocompare.com, My Utility Genius, thePeoplesPower and Which?) See CMA, [Energy market investigation: Final report, Appendix 9.3](#), June 2016, paragraph 27.

⁴⁵ This is supported by results from our quantitative analysis of the impact of removal of wide MFNs where we found that an increase in the size of a DCT in terms of sales volume by 1% led to an increase in commission fees by 10%. See Appendix 2, Table 3.

⁴⁶ The average commission charged by the Big 5 DCTs in motor insurance increased by around £3 (7% or 4.7% in real terms) between 2013 and 2016 and the average commission charged by the Big 4 in home insurance increased by £3.40 (8% or around 3% in real terms) between 2012 and 2016.

⁴⁷ If a DCT has a higher degree of brand loyalty, it may also be harder for suppliers to replicate traffic on other sales channels (see paragraph 2.59).

that one of the DCTs has the most differentiated image in the DCT market, compared to the other major providers.⁴⁸

Ability to replicate sales on other sales channels

- 2.49 Where suppliers are able to replicate sales and profits on other channels (eg other DCTs or suppliers' direct sales channels), this is likely to strengthen their negotiating position, as suppliers will have a more credible alternative when de-listing or seeking to steer consumers to other sales channels. This depends on (i) the extent to which consumers use multiple DCTs and sales channels; and (ii) the cost-effectiveness of those sales channels.

Consumers' use of sales channels

- 2.50 In general, when consumers multi-home between DCTs and use other sales channels, it increases the supplier's ability to replicate sales through one DCT and strengthens their negotiating position. However, not all multi-homing has the same impact on a supplier's negotiating position. In Figure 2.15 we outline a range of scenarios to illustrate how differences in consumer behaviour (eg if they use multiple DCTs or if they use suppliers' direct sales channels) affect suppliers' negotiating position.

Figure 2.15: Types of multi-homing and effect on suppliers' negotiating position

		Single-homing			Multi-homing	
		Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5
Consumers check other DCTs...	...for the same purchase decision...	x	✓	x	✓	✓
	...and purchase based on best deal	n/a	x	n/a	✓	✓
Consumers check suppliers' direct sales channel (e.g. website)		x	x	✓	x	✓
Impact on suppliers' negotiating position		👎	👎	?	👍	👍

Source: CMA analysis reflecting findings from our consumer research regarding consumers search and purchasing behaviour.
Note: Purchasing the best deal will usually mean the lowest priced product but may include other factors where this varies between sales channels.

⁴⁸ [X].

- 2.51 Others things being equal, suppliers' negotiating positions are at their strongest where consumers both compare between DCTs and then choose, based on price/deal, which DCT to transact through (scenarios 4 and 5).⁴⁹ In contrast, where a consumer does not check more than one sales channel (scenario 1), or checks but does not select the best deal from the best sales channel (scenario 2),⁵⁰ this is less likely to improve a supplier's outside option.⁵¹ This is because the supplier is unable to steer consumers to using another cheaper DCT so the DCT is, in effect, providing exclusive access to a certain number of consumers. Thus a supplier would prefer to list with the DCT than not list.⁵²
- 2.52 Finally, when consumers check a supplier's direct sales channels (eg supplier's website or by telephoning the supplier) in addition to a DCT (scenarios 3 and 5), it does not automatically lead to an improved negotiating position for a supplier. An improved negotiating position depends on whether consumers would have visited the supplier's site independent of the DCT referral or not.
- (a) Where consumers check a supplier's website because they have seen the supplier on the DCT, this will not improve the supplier's negotiating position significantly as the supplier would not attract the customer without being on the DCT.⁵³
 - (b) In contrast, where consumers go to the supplier's website as a result of other marketing activity by the supplier, this will improve a supplier's negotiating position as it makes the supplier less reliant on the DCT for sales.
- 2.53 Given the significance of single and multi-homing for competition between DCTs as well as suppliers' negotiating positions, we have considered the

⁴⁹ They would be further strengthened if consumers accessed DCTs through a search engine rather than directly as the consumer would be potentially exposed to other DCTs on the search engine. However, if consumers were just using search engines to navigate to their favoured DCT, this is unlikely to change the supplier's negotiating position.

⁵⁰ For example, either the consumers visits multiple DCTs but only gets quotes from one DCT or the consumer selects the best deal from the last DCT they visit.

⁵¹ While suppliers may be in a weaker negotiating position in scenarios 1 and 2, DCTs may still be competing with each other to increase the number of consumers who use their sites (eg by giving rewards or improving the functionalities of their websites). This is particularly the case in scenario 2 where the consumer checks multiple DCTs for the same transaction.

⁵² Where consumers continue to single home but do so on different DCTs (ie they are less loyal) the effects of negotiating power are captured by the significance of the individual DCT (see paragraphs 2.46–2.48). In effect, if all consumers single homed but changed which DCT they used each time, this would be reflected in the less stable share of customers between DCTs. If those single homing customers go to other DCTs, that potentially strengthens the negotiating positions of other DCTs.

⁵³ This is especially true if a DCT can track consumer actions as the DCT could then show the supplier that it contributed to sales.

extent to which consumers shop around in practice. Our analysis found mixed evidence of single-homing and multi-homing.⁵⁴ The details of our analysis are set out in Appendix 1.

- 2.54 In our consumer survey, we found that a high proportion of consumers (64%) visited multiple DCTs when shopping around but we also found that a significant proportion (36%)⁵⁵ of DCT users single-home,⁵⁶ which would strengthen a DCT's negotiating power.⁵⁷ Our consumer survey also found that 31% of consumers who visited multiple DCTs and purchased through a DCT choose the DCT they purchased from based on factors such as whether they had purchased through the DCT before or on recommendation of friends and family, rather than because the site provided the best deal or other benefits, or because they found the product they wanted.⁵⁸
- 2.55 Analysis of data from DCTs and insurers, presented in Figure 2.16, indicates that a much higher proportion of consumers obtain quotes from just one DCT in motor and home insurance (71% and 89% respectively) although consumers who purchase through DCTs are less inclined to single-home for quotes (58% and 85% respectively).⁵⁹

⁵⁴ We used our consumer research and, in home and motor insurance, data from DCTs and a small number of suppliers.

⁵⁵ Other sources indicated significantly higher rates of single homing. In the PMI report, the CMA found that even relatively low rates of single-homing were likely to be a source of negotiating power for DCTs. See PMI report, paragraph 8.13.

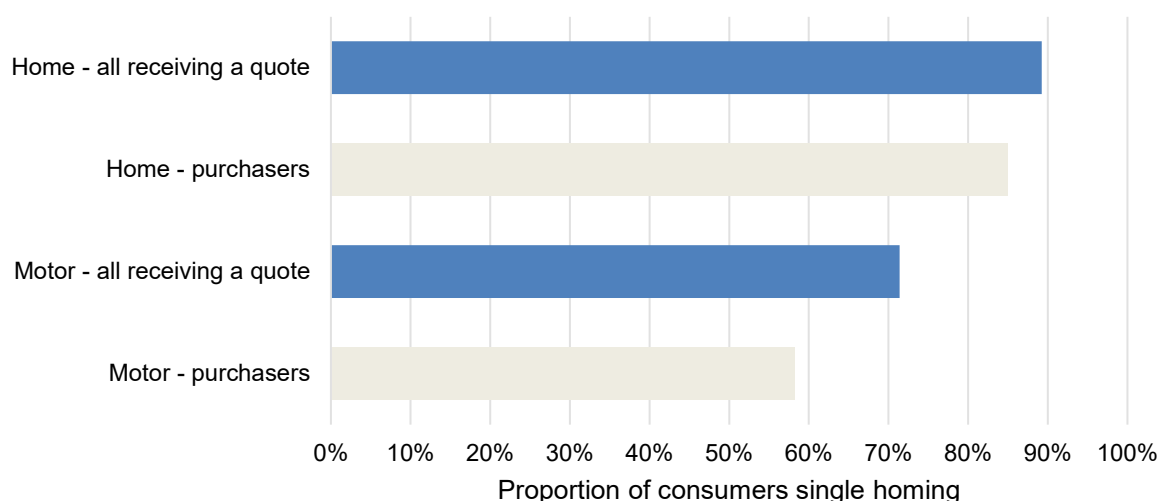
⁵⁶ Page 106 in Kantar, *Digital Comparison Tools: Consumer Research Final Report*, March 2017.

⁵⁷ As discussed above, suppliers cannot have access to these consumers via other channels.

⁵⁸ 31% of those who used multiple sites and made a purchase on a comparison site did not select any of the following reasons for choosing a comparison site to purchase from: found the product I wanted on this site; site gave best deal/offer; free gifts/benefits/rewards offered. Source: CMA analysis of Kantar Public survey data, P.7 How did you decide which comparison site to [purchase/take out a credit card] from? Please select all that apply. Base: Consumers who shopped around using a comparison site in last three months, visited multiple sites and made a purchase on a comparison site (428).

⁵⁹ Our DCT data analysis is likely to underestimate the actual level of multi-homing because of the limitations of the data (limited time period and lack of data on direct channels). However, the data we received from suppliers, which captures the entire consumer journey (including the direct channel), is more consistent with our DCT data analysis than with the consumer survey results.

Figure 2.16: Proportion of customers who used only one of the Big 4 DCTs, February, May and June 2016



Source: CMA analysis of data received from the Big 4 DCTs (ie Comparethemarket Confused, GoCompare and MoneySupermarket).

Note: Simple average across the three months.

- 2.56 Our survey results are likely to pick up situations where a consumer visited multiple sites but did not actually go through the whole process of obtaining quotes on each of them,⁶⁰ whereas the data analysis gives information on consumers getting quotes on multiple DCTs.
- 2.57 The first form of multi-homing can incentivise DCTs to compete on dimensions which are immediately visible to consumers (eg ease of use, coverage if they present information on it upfront, rewards, etc). Visiting multiple sites, even if not going through the whole comparison process, can also indicate less consumer loyalty, which increases DCTs' ability and incentives to compete for these multi-homing consumers. However, from the point of view of price competition, it is the second type of multi-homing (comparing quotes across DCTs) which is likely to matter more.⁶¹ If consumers compare quotes from multiple sites and purchase from the one with the best offer, DCTs are incentivised to compete to offer better deals and suppliers are able to negotiate more strongly with DCTs, resulting in lower commissions and better prices for consumers.

⁶⁰ Our survey asked how many sites respondents visited when they shopped around. Respondents could have interpreted this question in different ways, including visiting multiple sites without asking for quotes on each site.

⁶¹ This is likely to be particularly important in sectors where consumers shop around infrequently and have a less clear idea about what counts as a good offer.

- 2.58 Where DCTs are an important sales channel, high rates of single-homing by consumers give DCTs, and especially those with a large share of sales, significant negotiating power over suppliers.

Cost-effectiveness of DCTs and direct sales channel

- 2.59 While we identified above that suppliers may be able to replicate consumer traffic from one DCT through other DCTs and sales channels, they also need to be able to do this in a cost-effective manner.⁶² In the CMA's investigations into private motor insurance and energy, acquisition costs on DCTs were found to be cheaper per consumer than other sales channels.⁶³ In general, DCTs are a relatively low-cost acquisition channel for suppliers, especially if the supplier wishes to reach a large number of new consumers (see Appendix 3).⁶⁴ This means that the significant presence of DCTs in a sector should lead to lower acquisition costs and prices to consumers.

Summary of negotiating power across sectors

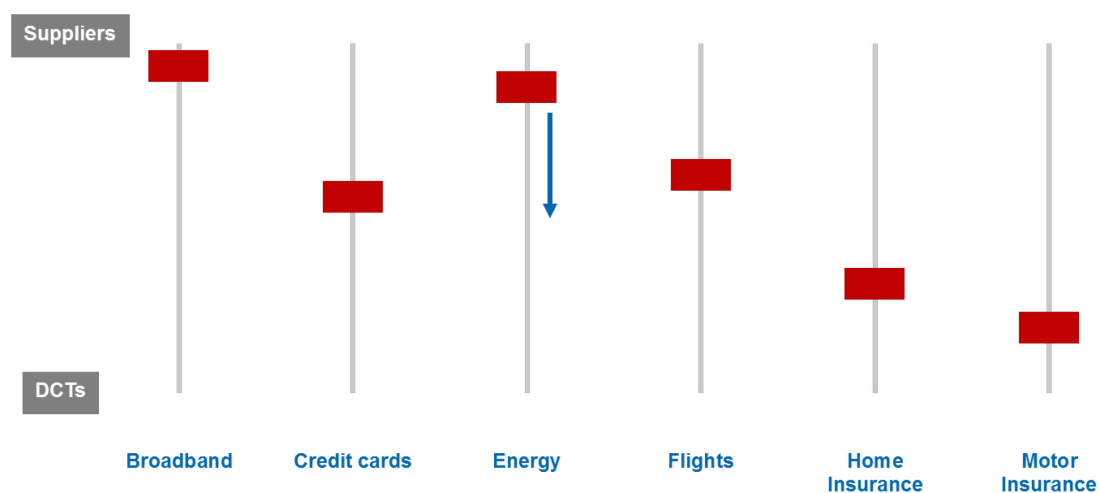
- 2.60 Taking the above factors into account, it appears that negotiating power between DCTs and suppliers in general varies by sector. Figure 2.17 illustrates our high-level view on the relative negotiating power between DCTs and suppliers in the sectors we have looked at, although there will be some variation between suppliers and between DCTs.

⁶² The cost structure of attracting consumers through different sales channels varies. Sales through DCTs are typically on a cost per acquisition basis, meaning that there are few fixed costs for suppliers, but commission fees will tend to feed through directly into higher prices. For direct sales channels, marketing costs through search engines are likely to feed into prices in a similar way to DCT commission fees, whereas brand advertising (eg TV advertising) tends to be more indirect and fixed in nature. This is less likely to feed directly through into price, although it will increase suppliers' overall costs, which would tend to lead to fewer suppliers in the market.

⁶³ See 'Appendices and glossary' on [PMI Final report: Appendix 8.1, Annex L](#) and [EMI Final Report, Appendix 9.6](#), paragraph 37.

⁶⁴ A supplier's negotiating position will only be strengthened if using other channels (especially its direct channel) is both cheaper than DCTs and can create sales volumes similar to using DCTs. If we find other sales channels are cheaper than DCTs but these sales channel(s) cannot replicate sales volumes at that cost, this would be unlikely to improve the supplier's negotiating position.

Figure 2.17: Illustration of the balance of negotiating power between DCTs and suppliers⁶⁵



Source: CMA analysis.

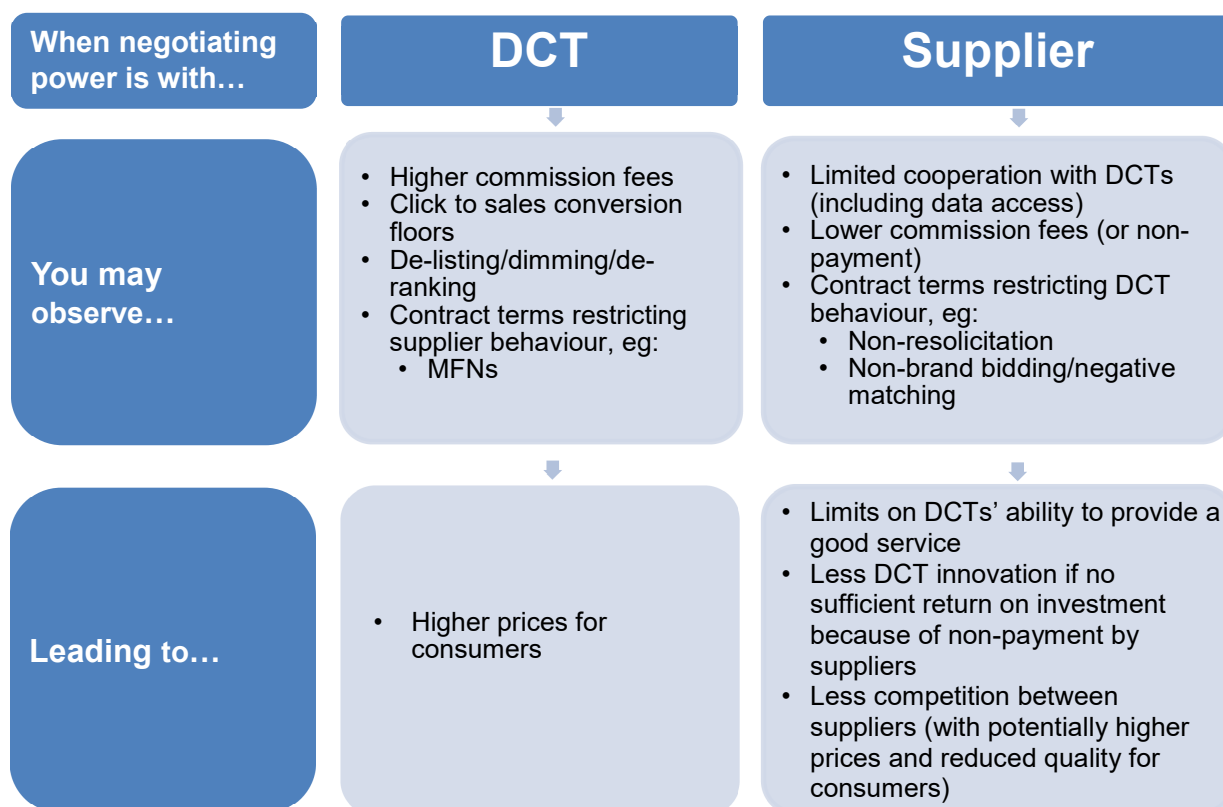
Notes: The energy sector has an arrow to reflect that the removal of the WoTM requirement, which is in progress, will shift negotiating power towards DCTs.

2.61 In Figure 2.18 we outline the types of behaviours and outcomes that result from negotiating power being with either suppliers or DCTs.⁶⁶

⁶⁵ This is primarily based on the concentration of suppliers and DCTs in each sector and the importance of DCTs as a sales channel.

⁶⁶ Given current business models, the negotiation between DCTs and suppliers has a significant impact on consumers. Under different business models (eg DCTs charging consumers), other constraints on DCTs may be more significant. However, the business model of DCTs is to some extent a choice by DCTs, so it is right to assess the constraints on DCTs from suppliers given the current market setup.

Figure 2.18: Likely effects of negotiating power



Source: CMA analysis.

2.62 As summarised in Figure 2.18, both too much DCT negotiating power and too much supplier negotiating power could undermine the potential benefits of DCTs for consumers. In other words, outcomes for consumers are likely to be best when DCTs have what they need to operate effectively (eg data from suppliers), DCTs compete effectively for consumers, and suppliers are able to constrain DCTs in their negotiations.

2.63 As identified in Figure 2.17, in both motor and home insurance, negotiating power appears to lie more with DCTs. This is consistent with our observation of the presence of MFNs in both these sectors, increases in commission fees and a higher prevalence of click to sales conversion floors.⁶⁷

2.64 In broadband and energy, it appears negotiating power lies more with suppliers. In broadband, DCTs' difficulty in getting access to data on speed

⁶⁷ Click to sales conversion floors are when the commission fee the supplier pays to the DCT is dependant not only on sales but on the supplier achieving a minimum proportion of sales for click throughs from the DCT. Click to sales conversion floors covered 14% of home insurance providers and 21% of motor insurance providers on average (some DCTs covered more providers than others.) In home insurance, the majority of these clauses were binding on the insurance provider. However, they affected more sales in motor insurance, both due to motor insurance sales being larger in general and it applying to a larger number of providers. Click to sales floors may also have a potential role in improving the consumer experience if they prevent spamming by suppliers.

and integrating with suppliers' systems to complete transactions are consistent with our view of negotiating power. In addition, the presence of negative matching agreements in contracts between suppliers and DCTs, in broadband is consistent with negotiating power being with suppliers rather than DCTs (see Figure 4.2). Similarly, in the energy sector some suppliers have been able to list on DCTs even in the absence of a contractual agreement.⁶⁸

- 2.65 When negotiating power is with DCTs, this is likely to increase the costs of distribution for suppliers. While vigorous competition between suppliers on DCTs may constrain how much costs are passed through to consumers, we can ultimately expect that higher commissions will lead to higher prices for consumers.

Barriers to entry and expansion

- 2.66 Advertising and marketing was identified as the main barrier to entry and expansion by respondents to the update paper, although other practices, such as the use of wide MFNs, were identified as reinforcing the barriers to entry and expansion.⁶⁹
- 2.67 As noted in Figure 2.2 DCTs need to attract consumers to their site. A common way to do this is through marketing activity to raise awareness of a DCT and its services. Marketing can build brand loyalty, which improves the sales of a DCT, and can also help in building trust in DCTs. However, brand loyalty can make it more difficult for other DCTs to enter or expand as consumers are less likely to switch suppliers and may only use one DCT. Our consumer survey found that previous use and experience of using a DCT is important in driving decisions about which DCTs consumers use (see Figure 2.4).
- 2.68 Advertising and marketing can be used not just to improve sales but as a way of re-enforcing brand loyalty. Our analysis of DCTs' advertising campaign data found that DCTs are primarily promoting their brand to consumers in their offline marketing and there is a notable promotion of their rewards schemes (eg vouchers and toys). We found that advertising and marketing was the most significant cost for DCTs (see paragraph 2.18), which was consistent with our findings in the CMA's PMI investigation.⁷⁰

⁶⁸ This is due to the WoTM requirement, which is discussed further in Paper C.

⁶⁹ The impact of wide MFNs on entry and expansion is discussed in paragraphs 3.13–3.15.

⁷⁰ See [PMI Final report](#), paragraphs 8.24–8.25.

- 2.69 Advertising and marketing is more likely to be a barrier where incumbents have established brands, so that entrants need to spend more per consumer and have a higher risk of failure than incumbents.⁷¹ There are also likely to be scale economies associated with brand advertising, which may limit the number of DCTs we might expect to succeed.⁷²
- 2.70 Attempts at entry have had varying levels of success. In motor insurance, for example, Comparethemarket entered later than Confused and MoneySuperMarket, and has been able to build a prominent position in the sector. However, in the PMI investigation, Tesco Compare and Covea SGAM told us that advertising costs were a barrier to entry. Covea SGAM noted also that the major risk of entry was the difficulty of differentiating its proposition where this could only be achieved on the basis of marketing. Tesco Compare eventually closed its business,⁷³ and Covea SGAM has not entered.
- 2.71 It appears that there are significant barriers to entry, given the need to attract a significant consumer base to constrain incumbents, particularly in sectors where DCTs are well established, such as motor insurance and home insurance. However, even in markets with higher barriers to entry and expansion, there may still be effective competition with the potential to grow the market.⁷⁴ In addition, despite these barriers, new DCTs, typically with new business models, have started to provide comparison services in some of our focus sectors. However, it is too early to tell how successful these new entrants will be in competing with established DCTs.⁷⁵

Effectiveness of competition

- 2.72 Having assessed all the factors above, we now summarise how effective competition is between DCTs. In the sectors we analysed⁷⁶ the four or five largest DCTs account for nearly all DCT sales with one DCT⁷⁷ having a 40 to 60% share of DCT based sales. This may be an issue where DCTs are in a strong position relative to suppliers. Our assessment above shows that in home insurance and especially in motor insurance, DCTs are in a stronger

⁷¹ Where there is a significant degree of brand loyalty, advertising by incumbents can increase the barriers to entry. However, where brand loyalty is lower, the ability to attract consumers through marketing and advertising may enable an entrant to overcome brand loyalty.

⁷² The nature of advertising expenditure will affect the degree to which it is a barrier to entry. Brand building/display advertising tends to be fixed in nature without an ability to attribute cost directly to sales. Response advertising, such as search engine pay per click, is easier to attribute to sales. If DCTs need to engage in brand building advertising, this is likely to be a more significant barrier to entry than if they need to invest in response advertising.

⁷³ See [PMI Final report](#), paragraph 8.23.

⁷⁴ Running a successful and innovative marketing campaign could help DCTs to enter the market, shift shares between existing players or grow the market.

⁷⁵ We did not find any other significant barriers to entry other than brand loyalty/marketing.

⁷⁶ Energy, broadband, credit cards, motor insurance and home insurance.

⁷⁷ The identity of this DCT varied by sector.

position than in other sectors (credit cards, broadband, energy and flights), in terms of their overall share of sales and relative bargaining position with suppliers. In the rest of this section, we take a close look at competition in those sectors.

- 2.73 As marketing and advertising appears to be one of the most important ways of competing for consumers, we have looked at DCTs' advertising campaigns to see if DCTs are actively trying to grow in specific sectors, especially where they are in a relatively weaker position compared to the market leader.
- 2.74 While DCTs have been competing vigorously with one another in terms of marketing spend and campaigns, a lot of the advertising appears to be brand building, and promotes rewards and savings rather than service features (see paragraph 2.68). For the most part, DCTs have stuck to their traditional areas of strength, although we have seen a few examples of DCTs increasing their advertising expenditure in sectors where they are relatively smaller.⁷⁸
- 2.75 As noted in paragraph 3.23, DCTs also seek to compete with one another for exclusive deals from suppliers, and this has become more common place since the removal of wide MFNs in motor insurance.⁷⁹
- 2.76 We have observed increases in commissions charged by DCTs in motor insurance and home insurance,⁸⁰ where DCTs are relatively more important than in other focus sectors.⁸¹ However, this commission increase has been accompanied by increasing investments in advertising by DCTs to attract consumers and an increase in the total number of consumers using these tools.⁸²
- 2.77 In sectors where DCTs are less developed (such as broadband, energy and credit cards), we have fewer concerns about competition between DCTs at this stage, due to suppliers being in a stronger negotiating position relative to

⁷⁸ The importance of brand awareness also means that any successful new entry is more likely to come from market players who already have a significant customer base or can otherwise leverage their position to start providing comparison services (eg banks, insurers or companies running campaigns with the help of newspapers).

⁷⁹ One DCT considered the ban on wide MFNs to have hindered their ability to secure exclusive deals (see paragraph 3.25). However, this still indicates that DCTs are seeking to secure better deals relative to one another.

⁸⁰ We did not have comprehensive datasets to carry out a robust analysis of commissions in our other focus sectors.

⁸¹ As discussed in Chapter 3 of this paper, wide MFN agreements between DCTs and suppliers can soften competition between DCTs and result in higher commissions. Wide MFNs were prevalent in motor insurance in the past and they are currently present in home insurance. As our analysis in Appendix 2 shows, with wide MFNs commissions were higher in motor insurance than they otherwise would have been.

⁸² Based on data submitted by Confused, Comparethemarket, GoCompare and MoneySuperMarket. One DCT has increased usage more than other DCTs, although all have grown.

DCTs. In these sectors our greater concern is in relation to any barriers to DCTs operating effectively to the benefit of consumers.

- 2.78 In sectors where DCTs are in a particularly strong position (home and motor insurance), our concerns focus on any behaviours that are likely to significantly restrict competition (see Chapter 3) and, more generally, on strengthening competition between DCTs.
- 2.79 A key driver of competition is the presence of active consumers checking multiple sites and not relying just on a single DCT. As discussed in paragraphs 2.10 and 2.13, there is some degree of consumer loyalty to DCTs. In addition, while a high proportion of consumers visit multiple sites when shopping around, a much lower proportion gets as far as requesting quotes from multiple DCTs in motor and, especially, home insurance (see paragraphs 2.54 to 2.57).
- 2.80 As discussed in paragraph 2.57, the first form of multi-homing (ie visiting multiple sites) incentivises DCTs to compete on dimensions which are immediately visible to consumers (eg ease of use, coverage if they present information on it upfront, rewards, etc). Checking multiple sites, even if not going through the whole comparison process can also signal less loyalty, which increases DCTs' ability and incentives to compete for these multi-homing consumers.
- 2.81 However, from the point of view of price competition, it is the second type of multi-homing (comparing quotes across DCTs) which is likely to matter more.⁸³ If consumers compare quotes from multiple sites and purchase from the one that offers the best deal, DCTs may want to lower their commission fee to suppliers to secure better prices from suppliers. In addition, suppliers are able to negotiate more strongly with DCTs as they have better alternative options, resulting in lower commissions and better prices for consumers. In this respect, there appears to be room for improvement in the sectors we have analysed.

Future developments

- 2.82 The analysis above is based on current market conditions. These may change, particularly with advances in technology affecting the way consumers use DCTs. However, the propensity of consumers to single-home will remain

⁸³ This is likely to be particularly important in sectors where consumers shop around infrequently and have a less clear idea about what counts as a good offer.

a critical dimension of competition, regardless of business model and technology.

- 2.83 As new technology facilitates new business models there is likely to be some entry from new competitors.⁸⁴ However, the impact of this is uncertain – will new models increase the number of consumers engaging with DCTs, or will existing DCT users move to new DCTs? Where new models such as concierge and automated switching services reduce the need for consumers to shop around actively every year and put additional competitive pressure on suppliers, single homing may increase, particularly if consumers need to pay upfront to use the services.⁸⁵ Over time this might result in either less competition between DCTs, or reduced pressure on commission fees DCTs charge to suppliers.
- 2.84 A shift to a ‘consumer pays’ model, as currently offered by some concierge services, could give rise to other issues. Where a lack of switching between DCTs develops, DCTs may choose to compete by offering low teaser rates before increasing charges levied to consumers.

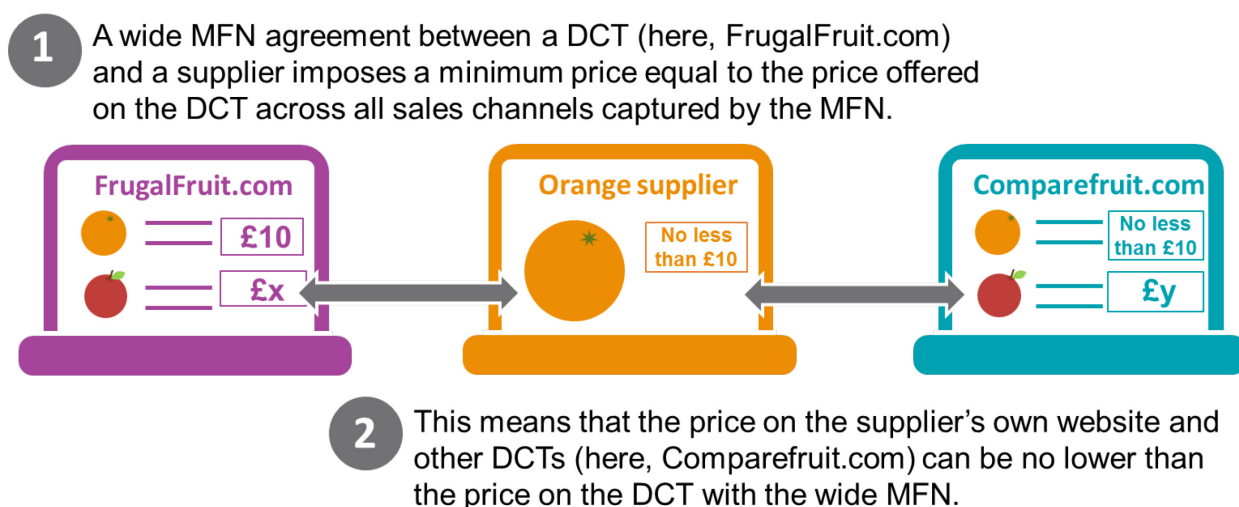
⁸⁴ Whether entry is successful will depend on whether the DCTs are able to attract sufficient numbers of consumers to the platform.

⁸⁵ The usage of apps instead of websites may also make consumers more likely to single-home or to be loyal to a particular app as it is unlikely they would download multiple apps with the same functionality.

3. Agreements that could affect competition between DCTs

- 3.1 We have reviewed a number of contracts between DCTs and suppliers. In some of these contracts we have identified two types of retail Most Favoured Nation (MFN) clauses:⁸⁶ wide MFNs and narrow MFNs.
- 3.2 A wide MFN clause between a DCT and a supplier specifies that a product or service may not be sold more cheaply on a supplier's own website or on any other DCT (see Figure 3.1 below).⁸⁷

Figure 3.1: A single wide MFN

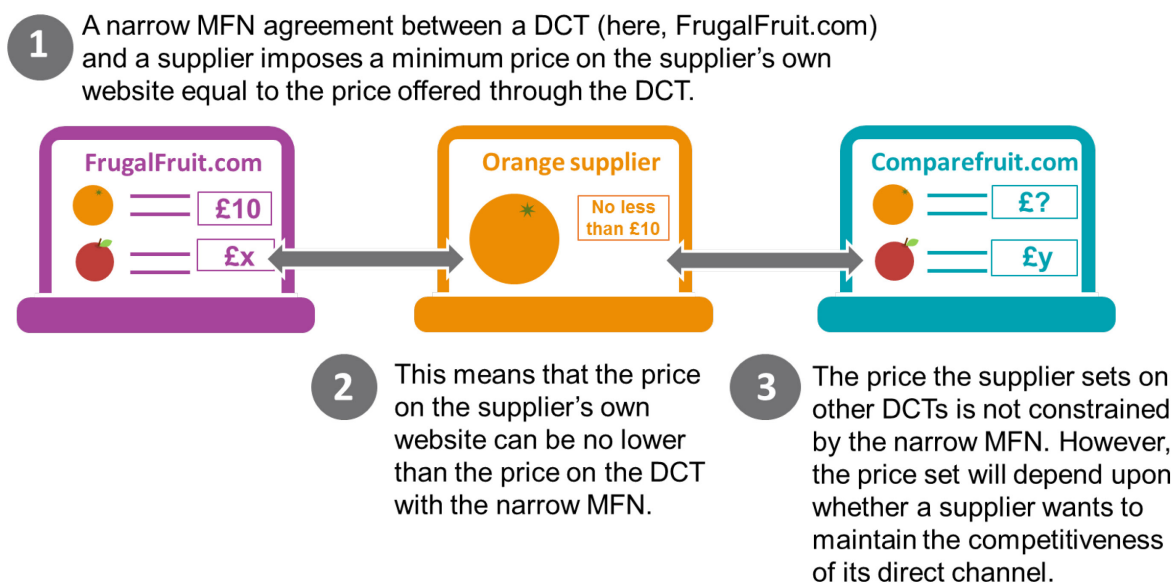


- 3.3 A narrow MFN clause requires a supplier to set a price on a DCT which is no higher than the price offered through the supplier's own website, but the narrow MFN does not stipulate conditions for sales via other channels (see Figure 3.2 below).

⁸⁶ These clauses are sometimes referred to as price parity clauses.

⁸⁷ Some clauses may encompass other sales channels, including offline sales. Throughout this section 'MFN' is used to refer to a platform MFN – that is an agreement between a platform (the DCT) and a supplier.

Figure 3.2: A single narrow MFN



3.4 In the following paragraphs, we set out our views of these clauses in the context of our study. In doing this, we set out our general views of these clauses, including the conditions under which consumer harm may or may not arise, and possible efficiencies.

3.5 We also set out some specific findings in relation to motor insurance. This is because wide MFNs and behaviour by comparison sites seeking to replicate the anti-competitive effects of wide MFNs were prohibited in relation to motor insurance in the CMA's Private Motor Insurance (PMI) market investigation (henceforth referred to as 'the prohibition of wide MFNs').⁸⁸ This gave us the opportunity to assess the impact of the prohibition of wide MFNs, as well as the impact of the narrow MFNs present in motor insurance, in the course of this market study.

Wide MFNs

3.6 During this study we have found wide MFN clauses being enforced in home insurance.⁸⁹ Below we set out the potential harm and efficiencies that may

⁸⁸ See CMA, [Private Motor Insurance final report](#). The prohibition on behaviours seeking to replicate the anti-competitive effects of wide MFNs only applies to comparison sites generating more than 300,000 policies. A number of national competition authorities across Europe have also recently taken action to prohibit wide MFNs in the hotel online booking sector. In light of this action the European Competition Network recently conducted a monitoring exercise in the hotel online booking sector. For more information on this see the [CMA's website](#) and the [European Commission's website](#). In addition, a number of European countries have also banned narrow MFNs in the hotel online booking sector – see for example GCR, [Italy's parliament moves to prohibit hotel parity clauses](#), May 2017). Any changes as a result of these bans will provide useful evidence on the impact of narrow MFN clauses in the hotel sector.

⁸⁹ We understand that there are also wide MFNs in place in other insurance sectors.

arise from such clauses and look at the impact of the prohibition of wide MFNs in motor insurance.

Potential for harm

3.7 In the context of the PMI market investigation, wide MFNs were found to soften competition between DCTs and between DCTs and competing channels through reducing DCTs' incentives to compete on commissions, to innovate and to enter.⁹⁰ As outlined above this led to the prohibition of wide MFNs.

3.8 In general, wide MFNs may produce the effects identified in the PMI market investigation through two mechanisms.⁹¹ In particular, wide MFNs:

(a) **Reduce incentives to compete on commissions** by creating a price floor across DCTs.

(b) **Reduce DCTs' ability and incentives to enter and expand** by seeking to attract lower prices from suppliers via lower commission fees.

Reduced incentives to compete on commissions

3.9 DCTs want suppliers to set lower prices on their DCT than they do on competing DCTs so that they can attract consumers and gain market share. Absent wide MFNs, DCTs should therefore compete with each other to offer suppliers the lowest commission rate in the expectation that this will incentivise suppliers to set a lower price on the DCT. Wide MFNs effectively stop this competitive process by creating a price floor across DCTs (even when only used by one DCT).

3.10 In other words, a DCT with a wide MFN can increase the commission it charges a supplier without the risk that the supplier will respond by setting a higher price on that DCT as compared to another channel. The supplier will either increase prices offered through all other distribution channels subject to the wide MFN, or it will maintain prices and absorb the loss in margins as a result of an increase in its costs.

3.11 In addition, DCTs without wide MFNs also have less incentive to keep commissions low for a supplier with a wide MFN as they cannot gain a competitive advantage (through lower retail prices) by doing so. In particular,

⁹⁰ In the PMI market investigation DCTs were referred to as price comparison websites, or PCWs.

⁹¹ In addition to reducing incentives to compete, MFNs may facilitate coordination or collusion by suppliers and/or by DCTs. This theory of harm is discussed in more detail in the CMA's submission to the OECD. See CMA, [CMA's submission to the OECD, October 2015](#).

if such a DCT lowered its commission the supplier will either increase its margin on that DCT or it will decrease the prices offered through that DCT **and** any DCT with a wide MFN.

- 3.12 As a result, a wide MFN reduces competitive pressure on commission rates and is likely to lead to higher commissions and retail prices charged to consumers (assuming some of the suppliers' cost, in this case the commission, is passed on), unless suppliers de-list from the DCT with the wide MFN.⁹²

Reduced ability and incentive to enter and expand

- 3.13 Absent wide MFNs, a DCT looking to enter the market has an incentive to find innovative ways of attracting lower prices from suppliers. For example, this may be by reducing commissions or investing in ways of reducing suppliers' expected costs in other ways.⁹³ With a wide MFN in place, such an entry strategy is undermined since the entrant's ability to acquire market share through offering a lower retail price to consumers is constrained.⁹⁴
- 3.14 Wide MFNs may also constrain DCTs' ability to come up with viable alternatives to the commission-based pricing model, by, for example, charging a fixed (monthly or yearly) fee to consumers in exchange for a lower retail price.⁹⁵
- 3.15 Other things being equal the harm arising from wide MFNs is exacerbated:
- (a) The greater the number of suppliers with wide MFN agreements with a DCT(s). This is because the harm arising from a single wide MFN applies across multiple suppliers. This means that DCTs' incentive to compete for consumer acquisitions through offering lower commissions to suppliers is more widely reduced. In addition, the competitive constraint from those suppliers without wide MFNs is lower.
 - (b) The greater the level of competition faced by DCTs in the absence of wide MFNs. If competition in the absence of wide MFNs is strong, the

⁹² The credibility of a supplier's threat to de-list will depend upon the importance of the DCT for consumer acquisitions.

⁹³ For example, a DCT could try to reduce suppliers' expected costs by better predicting customer characteristics.

⁹⁴ Conceivably the restriction on price competition could promote innovation by requiring DCTs to compete in different ways, for example by offering cashback/other incentives, where this remains compliant with the MFN. However, the effect of reduced incentives to compete on commissions is likely to mean higher retail prices in equilibrium vis-à-vis a sector with no MFNs.

⁹⁵ It is not clear if wide MFNs reduce entry and expansion by DCTs based on the existing business model (ie price comparison websites). For example, it is conceivable that wide MFNs may increase entry and expansion as higher commissions increase the expected return of any entry / expansion.

introduction of wide MFNs is likely to have a bigger impact on competition (both between DCTs and between DCTs and other sales channels).

Potential efficiencies

- 3.16 In the PMI market investigation, the CMA found that wide MFNs were not necessary to deliver any potential benefits to consumers over and above those of narrow MFNs, namely credibility and the prevention of free-riding (discussed below in paragraphs 3.68 to 3.78).
- 3.17 In particular, in the context of motor insurance the CMA found:
- (a) A significant proportion of consumers multi-homing across DCTs, suggesting that consumers did not expect offers to be the same on DCTs and hence price differences would not undermine the credibility of DCTs. Our evidence on consumer behaviour in relation to motor insurance, collected from both DCTs and suppliers, is consistent with this (see Appendix 1). In addition, the CMA's PMI market investigation found that DCTs operating in motor insurance (including those that had never operated with wide MFNs) had been successful in expanding.
 - (b) Wide MFNs do not provide any additional protection from free-riding to that available through a narrow MFN. For narrow MFNs, free-riding by suppliers is possible because the DCT makes clear which supplier has provided a quote, enabling the consumer to go directly to the supplier without the supplier needing to invest in advertising. However, as DCTs do not provide a link to other DCTs, it is unlikely that one DCT could free-ride on another DCT's investment as it would still need to invest in advertising to attract consumers.⁹⁶
- 3.18 As part of this market study, one DCT has maintained that wide MFNs enable it to offer a 'strong customer proposition' and that there is a particularly strong case for wide MFNs being used to instil consumer confidence in markets where DCTs are under-developed.
- 3.19 In particular, the DCT said that wide MFNs increase the incentive for a DCT to offer discounted commissions to insurers. The DCT said that this is because the presence of wide MFNs allows a DCT with a wide MFN to test or challenge whether the discounts it grants to insurers on commissions are

⁹⁶ It is conceivable that in the absence of wide MFNs, multi-homing consumers use the services of one DCT (such as consumer ratings or an eligibility indicator), but then purchase from another DCT to benefit from a lower price. This is more likely where there is greater service differentiation between business models which we have not seen material evidence of in our focus sectors.

passed on to consumers (ie by checking prices for the same policy across DCTs).

- 3.20 However, as outlined above, we consider that overall wide MFNs reduce all DCTs' incentives to compete on commissions. In addition, this is not consistent with the evidence we have seen based on the prohibition of wide MFNs in motor insurance, as set out below.

Impact of the prohibition of wide MFNs in motor insurance

- 3.21 As outlined above, wide MFNs were prohibited in motor insurance as part of the PMI market investigation. Over the course of this study we have gathered both qualitative and quantitative evidence on the impact of the prohibition of wide MFNs which we discuss below.
- 3.22 We have carried out econometric analysis to assess the impact of the removal of wide MFNs on the commissions charged by DCTs (see Appendix 2). Our results indicate that the prohibition of wide MFNs, with narrow MFNs still widely in place, has led to lower commissions than would otherwise have been the case. Our results suggest that wide MFNs increased commissions by around 3 to 4% on average during 2010 to 2016.
- 3.23 Stakeholder views provide a mixed but mainly positive picture of the impact of the prohibition of wide MFNs. Many of the suppliers who provided views said they had been able to negotiate exclusive deals and set different prices on different DCTs, and we have also received some examples of these price differences. Many said that this was a sign that the prohibition of wide MFNs had had a positive impact on competition. In addition, one of the Big 4 DCTs said that it had benefited from being able to negotiate discounts / exclusive deals.⁹⁷
- 3.24 On the other hand, some suppliers said that there had been no impact or a negative impact. In particular, these suppliers considered that:
- (a) There had been no impact, at least on their pricing, as the wide MFNs they had with DCTs had been replaced with narrow MFNs which replicate the effect of wide MFNs, which we discuss below (see paragraphs 3.34 to 3.49). However, at least one of these suppliers said that, while there had been no impact on its pricing, there had been an overall increase in competition in motor insurance.

⁹⁷ Another of the Big 4 DCTs indicated that the number of suppliers willing to fund discounts is much bigger since the removal of wide MFNs.

(b) There had been a negative impact as the prohibition on wide MFNs effectively ‘approved’ narrow MFNs such that suppliers who previously did not have any MFNs now have narrow MFNs. This replicates the effect of wide MFNs and / or reduce the constraint from the direct channel.

3.25 Further, two of the Big 4 DCTs said that DCTs had been negatively affected by the prohibition of wide MFNs,⁹⁸ although one said that this was because other contractual restrictions, related to wide MFNs, are still in place.

3.26 Overall, the evidence, both qualitative and quantitative, suggests that the removal of wide MFNs in motor insurance has led to increased competition between DCTs. This supports the view that wide MFNs soften competition.

Summary

3.27 Our concern remains that wide MFNs soften competition between DCTs and between DCTs and competing channels, through reducing DCTs’ incentives to compete on commissions and to innovate. In the context of this market study we have found further evidence in relation to motor insurance to support this. The evidence we have gathered, and particularly our econometric analysis shows that the prohibition of wide MFNs has led to an increase in competition between DCTs.

3.28 We have found wide MFN clauses being enforced in home insurance and we are launching an enforcement case in relation to these agreements.






Narrow MFNs




3.29 As set out in Figure 3.3, we have found evidence of narrow MFNs in all of the sectors we examined.⁹⁹ The evidence we have received shows that narrow MFNs are more prevalent in the motor insurance, home insurance, credit card and flights sectors, and less prevalent in broadband.

⁹⁸ In particular, one DCT said that the prohibition of wide MFNs made it harder to secure discounts or exclusive deals from suppliers and offer a strong consumer proposition, which we consider above at paragraphs 3.18–3.20.

⁹⁹ We did not look at the energy sector as part of our analysis of MFNs; Ofgem’s four-tariff rule and whole of the market requirement in energy (discussed in Paper C, paragraphs 44–48) have constrained DCTs’ pricing such that MFNs are less likely to be in place and they were not observed during the Energy Market Investigation (see Appendix 9.3 of the CMA’s [Energy Market Investigation](#)). The four-tariff rule has now been removed and the whole of the market requirement is currently in the process of being partially removed (see Ofgem, [Decision on the partial implementation of the CMA’s Whole of Market remedy and consulting on new Code requirements](#), July 2017) following the CMA’s [Energy Market Investigation](#).

Figure 3.3: Prevalence of narrow MFNs

Sector	Narrow MFNs
Broadband	
Motor insurance	
Credit cards	
Flights	
Home insurance	

Key: Based on the limited sample we have observed  indicates a relatively high level of prevalence,  a medium level of prevalence and  a relatively low level of prevalence.

Source: CMA analysis of information provided by DCTs and suppliers.

3.30 We have also found evidence in motor insurance, home insurance and credit cards that in some cases these clauses apply to the product offering as a whole and not just to price. Such terms reduce a supplier's ability to circumvent a narrow MFN through non-price (eg quality) adjustments.

3.31 Under certain conditions, narrow MFNs may harm competition by:

- (a) replicating the effects of a wide MFN; and/or
- (b) lessening or eliminating competition from the direct channel.

3.32 We discuss each of these mechanisms below. In doing this we first consider each mechanism generally before going on to discuss specific findings in relation to motor insurance, where we have the most evidence specifically on narrow MFNs. This is mainly because narrow MFNs are prevalent in motor insurance but wide MFNs are no longer in place.

3.33 We then go on to discuss the potential benefits of narrow MFNs before considering whether there are possible alternatives to these agreements. Finally, we discuss the scope of narrow MFNs.

Replicating the effects of a wide MFN

3.34 Stakeholders have asserted, both during the PMI market investigation and our market study, that for a supplier one or more narrow MFNs may replicate the

effects of wide MFNs. This could be the case under certain conditions and give rise to harm as set out at paragraphs 3.8 to 3.12 above.¹⁰⁰

- 3.35 A narrow MFN between a DCT and a supplier requires that a rise in the price listed on the DCT, for example as a result of an increase in the commission charged by that DCT, be matched by a simultaneous rise in the direct price. Purchasing through the direct channel then becomes less attractive to a consumer vis-à-vis purchasing from a lower-commission charging DCT (assuming cost-reflective pricing by a supplier).
- 3.36 A supplier that is concerned with protecting the competitiveness of its direct channel will ensure the price it sets on any DCT is no lower than its direct price. Therefore, in response to a commission increase by a DCT with a narrow MFN, the supplier will increase the price set not only on the DCT with the narrow MFNs and on its direct channel, but also on other DCTs. This effectively has the same implication as a wide MFN by enabling a DCT to increase its commission without becoming less competitive than other DCTs.
- 3.37 We have considered when this is likely to be the case. We found that only some suppliers are concerned with protecting the competitiveness of their direct channel. Therefore, narrow MFNs will only replicate the effects of wide MFNs in relation to some suppliers. This is explored in more detail below.

When are narrow MFNs more likely to replicate wide MFNs?

- 3.38 Whether narrow MFNs replicate wide MFNs can be observed by looking at suppliers' pricing behaviour. We look at this in motor insurance where wide MFNs have been removed but narrow MFNs are still widely in place. In addition, there are a number of conditions that need to hold for narrow MFNs to replicate wide MFNs, which we look at below.¹⁰¹
- 3.39 For a specific supplier, there are two conditions that must hold for narrow MFNs to replicate the harmful effects of wide MFNs.
- (a) First, the supplier must not be willing to undercut its direct price on other sales channels. That is, irrespective of the presence of MFNs the supplier must treat the direct price as a price floor across sales channels.
 - (b) Second, the narrow MFN must be binding such that, absent narrow MFNs, the supplier would set a lower price on the direct channel than on

¹⁰⁰ While a single narrow MFN may replicate a wide MFN for the supplier in question, the likelihood of harm increases with the number of narrow MFNs in a given sector.

¹⁰¹ These conditions are particularly relevant where suppliers' pricing across DCTs in the presence of narrow MFNs cannot be observed, for example, due to wide MFNs.

the DCT. If this is not the case, then narrow MFNs have no impact on the direct price. This second condition is necessary for narrow MFNs to cause harm more generally and is discussed in detail in the context of the supplier's direct channel below (see paragraphs 3.50 to 3.67).

- 3.40 Based on the first condition, for narrow MFNs to replicate wide MFNs the supplier must treat the direct price as a price floor. This means that prices on all DCTs with narrow MFNs are the same as the direct price irrespective of any differences between these DCTs (eg in commissions). Therefore, any differences between these DCTs are not reflected in pricing just as under wide MFNs.
- 3.41 This condition is more likely to be met when, for a supplier, the profits gained on DCTs from charging a lower price than on the direct channel are lower than the profits lost on the direct channel. This is more likely:
- (a) the more profitable customers acquired through the direct channel are for suppliers relative to those acquired through DCTs;
 - (b) the lower the competitive constraint from suppliers willing to undercut their direct channel or without narrow MFNs. If the supplier has to compete vigorously with other suppliers, including those on DCTs, the strategy of not undercutting its direct price is less likely to be profitable; and
 - (c) the lower the ability of the supplier to attract consumers to more profitable sales channels (eg the DCT with the lowest commission) through lower prices. If the supplier cannot attract consumers to the more profitable channel, the gains in volumes on that channel are lower relative to the losses from lowering the price.
- 3.42 Assuming the above necessary conditions hold, a narrow MFN can replicate the effects of a wide MFN where, absent the narrow MFN, the supplier would charge a higher price on the DCT with the agreement than on at least one other DCT.¹⁰² This is because if the DCT with the narrow MFNs is the one on which the supplier would charge the lowest price then the narrow MFN does not affect the price set on other DCTs (though it may still affect the direct price).
- 3.43 Our current assessment of the focus sectors where we have observed narrow MFNs does not support that these conditions are met for the majority of

¹⁰² Price differences between DCTs may depend on a range of factors such as differences in commissions.

suppliers and hence narrow MFNs are unlikely to fully replicate the effect of wide MFNs in these sectors.

- 3.44 To consider whether narrow MFNs replicate the effect of wide MFNs in practice, we set out below our specific findings in relation to motor insurance, where wide MFNs have been removed but narrow MFNs are still widely in place.

Do narrow MFNs replicate wide MFNs in motor insurance?

- 3.45 We have considered the extent to which narrow MFNs replicate wide MFNs in motor insurance. This is because we can compare current outcomes in motor insurance, where narrow MFNs are prevalent, to outcomes in motor insurance before the prohibition of wide MFNs.
- 3.46 The evidence on suppliers' willingness to undercut their direct channel is mixed. Some suppliers have been trying to maintain the competitiveness of their direct channel in motor insurance to the extent that they are not willing to offer lower prices on any DCTs, even if they could.
- 3.47 However, these suppliers account for only a small proportion of sales (13% to 18%) made through DCTs in motor insurance.¹⁰³ In addition, many suppliers said they offer different prices on different DCTs which indicates that narrow MFNs have not replicated the impact of wide MFNs, at least not for all suppliers.¹⁰⁴
- 3.48 Our econometric analysis shows that DCT commissions have been lower than they would have been since the removal of the wide MFNs (see Appendix 2). As narrow MFNs are still in place in this sector, this suggest that the impact of narrow MFNs has not (or not fully) replicated that of wide MFNs.
- 3.49 In sum, our analysis shows that in motor insurance, where wide MFNs have been removed but narrow MFNs are still widely in place, narrow MFNs have not replicated wide MFNs.

Lessening or eliminating competition from the direct channel

- 3.50 As set out above the second way in which narrow MFNs may harm competition is by lessening or eliminating the competition a DCT faces from the direct channel, even when they do not replicate the effects of wide MFNs.

¹⁰³ These estimates are based on comments from four to six suppliers. A range is provided as for two of the suppliers it was unclear whether they considered that narrow MFNs replicate wide MFNs in motor insurance.

¹⁰⁴ For example, one supplier explained that while it currently set different prices on different DCTs in motor insurance it is not able to do this in home insurance due to the presence of wide MFNs.

Stakeholders raised this concern during the PMI market investigation and our study.

Potential harm

- 3.51 As set out in paragraph 2.7, suppliers' direct channels may compete with DCTs for consumers (and with other suppliers listing on DCTs). By providing an alternative sales channel for suppliers, the availability, strength and competitiveness of the direct channel may strengthen suppliers' negotiating position with respect to DCTs and can put downward pressure on commissions.
- 3.52 A supplier subject to a narrow MFN with a DCT is prohibited from setting a lower price on its own website. This means that any commission increase that is passed through to the retail price by the supplier on the DCT would – under the terms of a narrow MFN – have to be mirrored by a price increase on the supplier's direct channel. This may result in a weakened competitive constraint from the direct channel,¹⁰⁵ the effects of which could be higher commissions and thus higher retail prices where some of this cost (ie higher commission) is passed on by suppliers.¹⁰⁶
- 3.53 In addition, if a supplier cannot increase direct acquisition volumes by charging a lower price on its direct sales channel than on DCTs, a supplier may be unable to recoup the fixed costs of advertising the direct channel. If this results in less investment in the direct channel, the competitive constraint imposed by the direct channel on DCTs' pricing and service may be further weakened.
- 3.54 Other things being equal, we would have stronger concerns about the weakening of the competitive pressure from the direct channel if DCTs are not facing constraints from other channels (notably, from other DCTs).

Conditions for harm

- 3.55 Two factors are likely to affect the level of consumer harm arising from narrow MFNs as a result of weakened competition from the direct channel.

¹⁰⁵ This could also have an impact on innovation by DCTs but this impact is ambiguous. It could reduce investment by reducing the competitive constraints on the DCT. Conversely, DCTs may increase investment and innovation under narrow MFNs as higher commissions increase the expected return of any investment / innovation. The overall effect would depend upon whether the benefits of investment outweighed the increase in retail prices.

¹⁰⁶ Note that there can also be a static impact of higher prices for direct customers if the supplier would charge a lower price absent the MFN.

- 3.56 The first factor is the importance of the competitive constraint from the direct channel, absent narrow MFNs, relative to other constraints (ie other DCTs and suppliers without narrow MFNs). Harm is likely to be higher the stronger the competitive constraint from the direct channel, absent narrow MFNs, relative to other constraints.
- 3.57 The direct channel, absent narrow MFNs, is likely to be a stronger competitive constraint on DCTs relative to other constraints:¹⁰⁷
- (a) the lower the direct price in the absence of narrow MFNs compared to the price that the supplier sets on the DCT – for any harm to arise a supplier's direct price must be lower in the absence of narrow MFNs otherwise the removal of narrow MFNs would have no impact;
 - (b) the more consumers shop between DCTs and the direct channel rather than between DCTs (eg the direct channel may be a stronger constraint on a DCT, relative to other DCTs, if consumers do not multi-home across DCTs, but do multi-home across DCTs and the direct channel); and
 - (c) the weaker the constraint from the direct channels of suppliers without narrow MFNs, including those not listing on DCTs.
- 3.58 The second factor is the relative negotiation power of suppliers and DCTs. In particular, consumer harm is likely to be higher the weaker the negotiating power of suppliers vis-à-vis DCTs.
- 3.59 This is because the relative negotiating position of suppliers and DCTs may determine the likelihood of a narrow MFN being introduced into contracts.¹⁰⁸ In other words, a supplier that holds market power or is a 'must-have' brand for a DCT to be viable and credible may be able to resist the inclusion of a narrow MFN clause.¹⁰⁹
- 3.60 Our current assessment of the focus sectors where we have observed narrow MFNs does not clearly indicate that these conditions are being met, mainly because in each sector, there are a number of DCTs competing with each other (see paragraphs 2.75 and 2.76) and consumers tend to multi-home

¹⁰⁷ This could be assessed by looking at sensitivity of demand on one sales channel to changes in price on other channels. However, it has not been possible to gather evidence on this.

¹⁰⁸ The lower incidence of narrow MFNs in broadband is consistent with our analysis of market structure and relative negotiating power in paragraph 2.64. In contrast, a number of insurers have told us that they do not have any option but to agree to narrow MFNs with DCTs where they are an important acquisition channel.

¹⁰⁹ Suppliers may be able to negotiate other contract terms in return for MFNs. It is not clear whether this necessarily reduces the likelihood of harm. For example, one DCT explained that it accepted non-resolicitation clauses as a concession to suppliers and in parallel to MFN clauses, to secure suppliers' agreement to be on its site.

across DCTs rather than across DCTs and suppliers' direct channels (see Appendix 1).¹¹⁰

- 3.61 We now turn to discussing our specific findings in relation to motor insurance. This is the sector where we have gathered the most detailed evidence on the impact of narrow MFNs, given the prevalence of narrow MFNs wide MFNs no longer being in place.

Impact of narrow MFNs in motor insurance

- 3.62 In the PMI market investigation, we assessed the effect of a narrow MFN removing a potential source of competitive constraint on DCTs from suppliers' own websites. In particular:¹¹¹

(a) We considered that suppliers have an incentive to price lower on DCTs than on their direct channel. This was because, relative to the direct channel, the cost of consumer acquisition was, in general, lower through DCTs and the price elasticity of demand of consumers was greater on DCTs.

(b) We concluded that competition in PMI was more effectively driven by rivalry between DCTs than between DCTs and the direct channel.

- 3.63 Consistent with this, in our study we have found evidence that suggests that acquisition costs can be lower on DCTs and the price elasticity of demand of consumers is greater on DCTs. This means that suppliers may have an incentive to price lower on DCTs than on their direct channel.

- 3.64 However, we have also found evidence that suppliers may have an incentive to price lower on their direct channel than on DCTs. In particular, evidence from several large insurers shows that prices on the direct channel would likely be lower than prices on DCTs absent the narrow MFN. This is because their pricing models take into account not just the cost per acquisition on different channels and the price elasticity of their demand, but also the lifetime value (LTV) of their customers on different channels.¹¹²

- 3.65 In particular, for at least some suppliers LTVs for customers acquired on the direct channel appear to be lower than those acquired through DCTs. For

¹¹⁰ However, as discussed in paragraphs 3.27 and 3.28, we are concerned that in home insurance competition between DCTs is softened by wide MFNs.

¹¹¹ See CMA, [Appendix 8.1 of PMI Appendices and glossary](#).

¹¹² Customers acquired on the direct channel may currently have a higher LTV than customers acquired on DCTs due to factors such as renewal rates and revenue from cross-selling.

those suppliers, there may be an incentive to lower the direct price to increase conversions on the direct channel (see Appendix 3 for more detail on LTVs).

- 3.66 In terms of the strength of competition from the direct channel, our evidence suggests that in our focus sectors DCTs face competitive pressure from other DCTs, unless it is restricted, eg through wide MFNs. This competitive constraint from other DCTs is greater than the constraint from the direct channel (eg consumers are more likely to shop between DCTs than between DCTs and the direct channel, see Appendix 1).¹¹³
- 3.67 Finally, some suppliers have come up with strategies, such as having multiple brands or products (some listed on DCTs and being covered by narrow MFNs and some only sold on their direct channels), which can reduce any potential harmful effect of narrow MFNs.

Potential benefits of narrow MFNs

- 3.68 While narrow MFNs can give rise to competition concerns where certain conditions are met, the PMI market investigation found that they may also deliver benefits to consumers. Generally narrow MFNs may have two potential benefits as set out below.¹¹⁴

The credibility of DCTs

- 3.69 The first potential benefit is that narrow MFNs may help to preserve DCTs' credibility and to sustain DCTs' business model or at least make them more attractive to consumers. If offering prices at least as low as those available through direct channels is necessary to attract consumers to a DCT, narrow MFNs may be used to sustain their existence.
- 3.70 All of the Big 4 DCTs have told us that narrow MFNs are necessary to ensure the credibility, and therefore use, of DCTs as a sales channel by consumers.¹¹⁵ Two suppliers and a DCT told us that narrow MFNs can build consumer confidence where DCTs are not established in a market.
- 3.71 The evidence from our consumer survey suggests that most consumers trust DCTs to provide them with the best price for the product they have searched for. In our consumer survey 70% of those aware of comparison sites trusted

¹¹³ However, the evidence we have collected on consumer behaviour is in the context of narrow MFNs being in place. Therefore, it is unclear exactly how consumers would shop absent narrow MFNs.

¹¹⁴ The extent to which these potential benefits may apply to wide MFNs is discussed above, see paragraphs 3.16–3.20.

¹¹⁵ For example, one of the Big 4 DCTs told us that the knowledge that a consumer will not find a better deal by going direct increases consumers' trust in DCTs.

DCTs to provide them with the best price¹¹⁶ and 61% either had more trust in comparison sites or trusted comparison sites and supplier sites equally when it comes to providing the best price. However, almost one third (30%) of consumers had more trust in suppliers' own websites than DCTs to provide them with the best price.¹¹⁷

- 3.72 Further, our consumer survey suggests that, while the prices displayed on DCTs are important (the main reason for visiting DCTs is to save money), consumers also visit and use DCTs for other reasons such as to compare a large number of providers and save time (see paragraph 8 of Paper A).¹¹⁸ This is consistent with our qualitative research (see paragraph 9 of Paper A).¹¹⁹ Therefore, it is likely that many consumers would keep using DCTs even if there was a price differential between DCTs and suppliers' direct channels.
- 3.73 The argument that narrow MFNs are necessary for DCTs' credibility is more likely to be valid in a situation where the DCTs are less established; but in sectors with established DCTs, this argument seems weaker. In particular, consumers benefit from and use DCTs for a number of reasons: besides prices the range of offers, ease of use and, in some cases, rewards also play an important role.

Free-riding by suppliers

- 3.74 The second potential benefit is that narrow MFNs may prevent suppliers free-riding on the investment of DCTs.
- 3.75 Absent a narrow MFN, the price on suppliers' websites may be lower than those suppliers' prices on DCTs. When this is the case consumers may use DCTs as a shop window to get information about the range of supplier and offers,¹²⁰ but then complete their transaction on a supplier's website independently (ie the DCT generates indirect leads).
- 3.76 In this situation DCTs, who make money from converting traffic into sales on their website, may not get reimbursed for their lead generation. Given this, DCTs' expected return on investment will be lower and they are less likely to invest in their businesses; ie free-riding might undermine the DCT business model and the benefits that DCTs can bring to consumers.

¹¹⁶ Page 67 in Kantar, [Digital Comparison Tools: Consumer Research Final Report](#), March 2017.

¹¹⁷ Page 73 in Kantar, [Digital Comparison Tools: Consumer Research Final Report](#), March 2017.

¹¹⁸ Page 88 in Kantar, [Digital Comparison Tools: Consumer Research Final Report](#), March 2017.

¹¹⁹ Page 94 in Kantar, [Digital Comparison Tools: Consumer Research Final Report](#), March 2017.

¹²⁰ See discussion of qualitative research at paragraph 2.9.

- 3.77 Narrow MFNs, by ensuring that new customers cannot find the deal cheaper on the direct channel than on a DCT, increase the likelihood of consumers completing the transaction on the DCT, and the DCT getting reimbursed for lead generation. This is a plausible efficiency justification, which could counterbalance any potential harm from narrow MFNs.
- 3.78 The risk of this free-riding may be stronger in some sectors than in others. Where obtaining price information is more costly (eg where consumers go through a lengthy process to obtain quotes) the risk of free-riding likely to be smaller than in situations where checking the supplier's direct offer is just a click away.¹²¹ Free-riding may also be less of a concern where suppliers and DCTs can develop alternative charging models that allow DCTs to be rewarded for indirect leads.

Alternatives to narrow MFNs

- 3.79 As outlined above narrow MFNs have the potential to lead to both consumer harm and benefits to consumers. Therefore, we have considered whether there are any practicable alternatives which may replicate the potential benefits of narrow MFNs, specifically the prevention of free-riding, without the associated consumer harm.
- 3.80 For example, DCTs could be reimbursed for all the leads they generate if DCTs and suppliers could improve their ability to identify when a DCT generated a lead (eg by improving consumer tracking or through ex-post audits). In turn this could lead to at least some consumers receiving lower prices than with narrow MFNs in place. For example, this may be the case for consumers using the supplier's website (see paragraph 3.64).
- 3.81 However, the actual overall outcome of any alternative tracking and reimbursement mechanism is speculative and the overall impact on pricing and competition is unclear. In addition, we have heard mixed views (including from insurers) whether these alternatives could be implemented in practice at the present.

Scope of narrow MFNs

- 3.82 The specific wording and scope of narrow MFNs affects how restrictive these agreements are, and whether they go beyond what appears to be justified to achieve efficiencies.

¹²¹ The cost of using multiple sites may also reduce multi-homing and the competitive pressure on DCTs. Reducing the cost of multi-homing could have a beneficial effect on competition.

- 3.83 We have received views that DCTs are trying to extend narrow MFNs to suppliers' existing customers (instead of covering only new customers). While the free-riding efficiency is credible in relation to new customers, we do not see any efficiency justification for applying the MFN terms to existing customers,¹²² where DCTs play a weaker or no role in lead generation.
- 3.84 In addition, the cost of acquisition of existing customers is likely to be lower than the cost of acquisition via a DCT. This suggests that suppliers can offer more competitive rates to existing customers, which would not be possible with narrow MFNs in place for these customers.

Summary

- 3.85 Our analysis shows that narrow MFNs do not appear to significantly restrict competition in motor insurance where wide MFNs have been removed but narrow MFNs are still in place. This is particularly the case when taking into account their potential benefits.
- 3.86 More generally we consider that narrow MFNs replicate wide MFNs or lead to material harm due to the restriction of the direct channel only under certain conditions. In relation to our other focus sectors in cases where narrow MFNs are in force, our current assessment of the evidence indicates that narrow MFNs do not significantly restrict competition.
- 3.87 In relation to the potential benefits of narrow MFNs we considered that the credibility argument seems weaker in sectors with established DCTs, but may be valid where the business model and DCTs in general are less established. We consider that the free-riding argument is likely to be a plausible efficiency justification which could counterbalance any potential harm from narrow MFNs. However, this argument will be stronger in some sectors than others and the risk may reduce in the future. Further, it is not clear that there are any practicable alternatives to narrow MFNs to address the free-riding issue.
- 3.88 Finally, narrow MFNs should not go beyond the scope of what is necessary for achieving the efficiencies they can bring. In particular, we do not see how applying narrow MFNs to suppliers' existing customers would lead to efficiencies.

¹²² Existing customers may be consumers that the supplier already has a contract with (eg insurance contract) or consumers who participate in a supplier's loyalty program (eg in the travel sector).

4. Practices and agreements that could affect the effectiveness of DCTs

- 4.1 In the previous chapter, we discussed agreements that might reduce competitive pressure on DCTs. In this chapter, we turn to practices and agreements that could limit DCTs' ability to operate effectively and maximise the potential benefits they could bring to consumers. One such practice is related to how suppliers might change their product offerings as a result of competing with other suppliers on DCTs. We discuss this under 'hollowing out' below. We then turn to agreements that affect the way DCTs can advertise and market their services to consumers – namely non-brand bidding and negative matching agreements and non-resolicitation agreements.

Hollowing out

- 4.2 Some stakeholders have expressed concerns about 'hollowing out' particularly in the insurance and credit card sectors. We have therefore considered, as recommended by the UKRN,¹²³ whether DCTs are leading to hollowing out in these or other of our case study sectors.
- 4.3 In our Update Paper we set out two main types of practice which are often referred to as 'hollowing out':
- (a) Unbundling, which is the restructuring of products by separating out and pricing separately certain components of the offering.
 - (b) Pure hollowing out, which happens when consumers focus on one product feature (typically price) and stop comparing products on other important aspects (typically quality). This may reduce suppliers' incentives to invest in quality and lead to an overall decrease in product quality.

Unbundling

- 4.4 Unbundling can often be beneficial for consumers as it enables them to buy products and services tailored to their needs. However, in some circumstances, unbundling could lead to consumer harm. The potential for such harm is greater if it is not clear to consumers what product components are included in the offer, or the pricing of the components is not transparent.
- 4.5 The occurrence of potential negative effects of unbundling depends on the way in which product information is presented to consumers and how

¹²³ UK Regulators Network, [UKRN Letter to the CMA](#), September 2016.

consumers react to it. DCTs, as intermediaries that present suppliers' offers to consumers, can in theory be part of the problem by, for example, making it more difficult for consumers to understand and find the right product for their needs, or part of the solution by implementing strategies that could simplify the comparison and choice process of consumers.¹²⁴

- 4.6 DCTs' behaviour depends on their incentives and their ability to act. On the one hand, DCTs need to make sure that they meet consumers' expectations to provide easy comparison and help them find products that are suited to their needs.¹²⁵ If the consumer journey becomes more difficult, consumers would engage less with DCTs and increasingly drop out of the purchasing process and, in so doing, harm DCTs' revenues. As a result, DCTs have incentives to minimise the negative effects of unbundling and, as such, be part of the solution. However, on the other hand, the strength of these incentives may vary based on the specific commercial agreements between suppliers and DCTs. In particular, where the commission rate earned by DCTs increases with the value of the product (such as in broadband) DCTs could have an incentive to steer consumers to purchase add-ons which they would have not otherwise chosen.¹²⁶
- 4.7 DCTs may also be part of the problem if they do not attempt to improve the presentation of products to consumers. However, their ability to act is dependent on their access to sufficiently detailed, comparable, product information.
- 4.8 Some stakeholders have expressed concerns about the effects of unbundling on consumers' ability to compare offers and suppliers, particularly in the insurance and credit card sectors, where products are complex and a number of product dimensions are relevant to consumers' purchasing decisions. We have therefore considered if this is the case and assessed the evidence available.
- 4.9 First, we found that in many sectors the unbundling of products had occurred before DCTs entered the market, as a pricing strategy associated with new business models (eg the entry of budget airlines in flights). This was also the

¹²⁴ This may be the case, for example, if the presentation of add-ons on DCTs induces consumer mistakes (ie to purchase add-ons that they do not need).

¹²⁵ Evidence from our consumer research shows that 54% of respondents use DCTs to compare a large number of suppliers and 37% to receive help in finding the most suitable product for their needs. See Page 88 in Kantar, *Digital Comparison Tools: Consumer Research Final Report*, March 2017. In addition, the CMA review of the existing literature on online search found that the way websites are designed and the tools which are available on websites have an impact on how consumers search and compare options online. See CMA, *Online search: Consumer and search behaviour*, April 2017.

¹²⁶ For a given internet service provider commission tends to be higher for bundled products such as those including television packages, which are typically more expensive.

view expressed by some stakeholders. For example, one DCT said in relation to insurance that its site was created precisely to make it easier for consumers to understand what is and what is not included in the offers, by improving how offers are displayed.¹²⁷

- 4.10 Second, in insurance the FCA have already considered these issues and implemented remedies aimed at improving the information provided to add-on buyers, imposing that add-ons must be sold on an opt-in basis and that the price must clearly state whether it refers to the core product or whether the price of certain add-ons is to be added.¹²⁸ The FCA have imposed these remedies on both suppliers and DCTs.
- 4.11 In addition to the FCA's work on increasing the transparency of add-ons in financial markets, we also found that DCTs appear to be working to minimise any potential negative effects of unbundling. They do this by, for example, allowing consumers to specify what elements to bring into the comparison and/or showing ratings, such as Defaqto,¹²⁹ which rate products on the basis of quality and comprehensiveness of the features offered.
- 4.12 Lastly, there is no compelling evidence indicating that DCTs make consumer choices more complex compared to other channels. The data provided by insurers is mixed: some suppliers provided data showing no significant differences across channels. Others indicated that the level of coverage or add-ons chosen when buying via a DCT is lower than that chosen when buying directly.
- 4.13 There are two reasons that might explain why the level of coverage or add-ons chosen on DCTs is lower than that on the direct channel.
- 4.14 First, consumers may exercise different choices on DCTs because of the way products are presented to them. However, as mentioned above, the FCA has already done some work to improve the presentation of products to consumers by enhancing the transparency of add-ons of insured products in the market.
- 4.15 Second, consumers who purchase products through DCTs may have different characteristics and therefore exercise different choices than those who purchase direct. DCT users can, for example, be more price sensitive (see

¹²⁷ Another example is the flight sector where the unbundling of offers (eg removal of luggage from the basic package and charging a separate fee for it) happened as a result of the entry of low cost carriers rather than as a result of comparison tools.

¹²⁸ FCA, *General Insurance Add-Ons Market Study – Remedies: banning opt-out selling across financial services and supporting informed decision-making for add-on buyers, including feedback on CP15/13 and final rules and guidance*, March 2016.

¹²⁹ See [Defaqto website](#).

paragraph 3.63 above) than users of direct channels and may choose to tailor insurance products to their needs by, for example, purchasing fewer add-ons. In this case, different choices of add-ons across channels can be explained by a different customer mix that each channel attracts.

Conclusion on unbundling

- 4.16 Overall, we have found that the structure of insurance products has changed over time (unbundling), possibly as a result of the growing use of DCTs. Unbundling can help consumers to purchase products that are more tailored to their needs and we are unlikely to be concerned about this practice unless there are transparency issues or the unbundling concerns compulsory components of an offer.

Pure hollowing out

- 4.17 As discussed in paragraph 4.3, pure hollowing out may lead suppliers to reduce the quality of their products when consumers focus mainly on price and ignore other product features (eg quality). To understand if and the extent to which this is happening in our case study sectors we considered the following questions:
- (a) Do consumers generally focus on price and is the focus on price stronger when using DCTs?
 - (b) Do consumers re-rank/filter results on DCTs (eg based on non-price factors)?
 - (c) Do consumers purchase less suitable products on DCTs?
 - (d) Have DCTs affected product features/mix in our case study sectors?
 - (e) Do DCTs use quality ratings and how are these used on DCTs?
 - (f) Do consumers use quality ratings?
- 4.18 We consider the evidence gathered to respond to each of these questions in turn below.

Do consumers generally focus on price and is the focus on price stronger when using DCTs?

- 4.19 Our survey found that consumers tend to look at just a few offers: 51% looked at one to three,¹³⁰ consistent with DCT data that consumers on average compare two to three home insurance offers. Similarly, users tend to look only at the top few offers or first page.¹³¹ Some users also assumed that cheapest deals were shown first, although others thought they were randomised or reflected what was 'best' for them.¹³²
- 4.20 We explored whether this implies that consumers focus only or mainly on price. As set out below, the evidence indicates that price is a factor of primary importance for consumers across sectors, irrespective of purchasing on a DCT or other channels.
- 4.21 In addition to stakeholders' views and consumer research, our analysis of DCT data indicates the importance of price when consumers compare products on DCTs. We gathered data from the three of the largest DCTs, across three of our focus sectors (broadband, energy, insurance), on the proportion of unique visitors that clicked through and purchased from the top five suppliers listed on their websites. This analysis shows that, in all three sectors, the vast majority of consumers click through and purchase from the top five suppliers listed on DCTs.¹³³ Given that suppliers are often ranked by price (or level of saving) on DCTs,¹³⁴ this result suggests that price plays a significant role in consumers' decision on DCTs.
- 4.22 However, some evidence shows that, although price is of primary importance, consumers do not necessarily choose the cheapest deal on DCTs. Brand, quality and suitability of the products are also considered important factors. Our survey found that a large majority of DCT users compare price and other product features in all sectors we looked at.¹³⁵ In credit cards, research from the FCA shows that, although consumers' attention started off focusing on headline prices, once this was absorbed, many consumers started to look at other product features.¹³⁶ Some findings of our data analysis point in the same direction showing that on one DCT in home insurance conversion rates for

¹³⁰ Page 128 in Kantar, *Digital Comparison Tools: Consumer Research Final Report*, March 2017.

¹³¹ Page 141 in Kantar, *Digital Comparison Tools: Consumer Research Final Report*, March 2017.

¹³² Page 139 in Kantar, *Digital Comparison Tools: Consumer Research Final Report*, March 2017.

¹³³ For example, in home insurance, data from two DCTs indicates that 69% and 92% of unique visitors respectively, clicked through the top five suppliers. Similarly, 65% and 76% of unique users purchased from the top five suppliers. In energy, data from the three DCTs shows that 55%, 70% and 79%, respectively, clicked through the top five suppliers.

¹³⁴ Page 51, GfK, *CMA Digital Comparison Tools (DCT) Mystery Shopping and Websweep Research Report*, September 2017.

¹³⁵ Page 130 in Kantar, *Digital Comparison Tools: Consumer Research Final Report*, March 2017.

¹³⁶ FCA, *Credit card market study*, July 2016.

offers further down the ranking order (although within the top five) are better than the first ranked supplier.

Do consumers re-rank/filter results on DCTs?

- 4.23 Our analysis of evidence presented to us, and discussed below, indicates that many of consumers do not tailor the presentation of results on DCTs by re-ranking and/or filtering results.
- 4.24 Our mystery shoppers found that DCTs in most sectors allowed them to filter or re-order results.¹³⁷ But 41% of recent users in our survey had not adapted results in either of these ways, with those looking for home insurance and energy least likely to do so.¹³⁸ In our qualitative research, the most confident users sorted and filtered results, but many were unaware of this functionality or struggled to use it correctly.¹³⁹
- 4.25 We also gathered data from some DCTs on the proportion of visits where users re-ranked or re-ordered results on their webpages. This analysis considered a few of our focus sectors: home insurance, broadband, flights and energy. The results show that, consistently across these sectors, consumers do not tend to re-rank or re-order results and, even less so, when using DCTs on mobiles as compared to desktops.
- 4.26 Given that results are generally ranked by a measure of price (or level of saving), this evidence, combined with evidence that consumers focus on the first results presented, further indicates that consumers' decisions will necessarily be driven by price as they do not tailor the presentation of results using different parameters.¹⁴⁰

Are consumers less likely to purchase suitable products on DCTs?

- 4.27 In order to understand whether consumers choose products on DCTs that are less suitable for their needs than those purchased directly from the supplier, we have looked at consumers' choice of product across channels. We have carried out this assessment in the motor and home insurance sectors focusing on successful claims, number and types of add-ons and level of voluntary excesses chosen.

¹³⁷ Pages 52 to 54 in Annex A: GfK, [CMA Digital Comparison Tools \(DCT\) Mystery Shopping and Websweep Research Report](#), September 2017.

¹³⁸ Page 126 in Kantar, [Digital Comparison Tools: Consumer Research Final Report](#), March 2017.

¹³⁹ Page 140 in Kantar, [Digital Comparison Tools: Consumer Research Final Report](#), March 2017.

¹⁴⁰ Even if consumers do not choose the cheapest offer, by limiting their search to initial results, the default ranking means that consumers will necessarily be choosing from amongst the cheapest offers presented.

- 4.28 We asked seven insurers whether there are notable differences between sales on DCTs and their direct channel in terms of claims rates and the proportion of nil-claims.¹⁴¹ Overall, their responses indicate that there are some differences in terms of claim rates compared to the total number of policies purchased, but not in terms of the proportion of nil-claims within all claims.
- 4.29 For example, one insurer said that household claim rates are lower for the direct channel, although not materially lower for motor insurance policies on a like-for-like basis. Another insurer said that there are no differences between channels in terms of attempted claims. Another insurer provided some data showing that, although in [X] insurance there are differences across channels in terms of the proportion of nil and non-nil claims compared to the total number of policies purchased, the nil claim rate is the same across channels.¹⁴² This suggests that, although there are some differences between channels, on average insurance products chosen on DCTs are no less suitable for customers than those purchased direct.
- 4.30 The evidence on the choice of add-ons is more mixed. Some insurers provided data showing that the level of coverage chosen on the direct channel is greater than that selected on DCTs. Others provided data which indicates that there is no or only a marginal difference in add-ons penetration across channels. However, as mentioned above in paragraphs 4.13 and 4.15 there are two possible explanations for this outcome.
- 4.31 We have consistently heard that the level of voluntary excess differs between channels, with lower excesses being chosen on the direct channel compared to DCTs. Some insurers provided data which supports these views. Some insurers also indicated that the level of voluntary excess chosen can be influenced by the default setting on different sales channels. We found that there are such differences both across and within channels.¹⁴³ For example, in home insurance one DCT sets £250 as the default voluntary excess level and allows consumers to change the amount in increments of £50, whereas another DCT does not set any default but provides only four options (ie none, £100, £250 and £500). One insurer sets as a default voluntary excess £200 and allows the consumer to choose a different amount (ie £100, £150, £250, £500 and £1000), whereas another insurer asks consumers to choose a combined policy excess rather than an additional voluntary excess.

¹⁴¹ A nil-claim is defined as a claim which results in no payment by the insurer.

¹⁴² Nil claim rate is calculated as the ratio of the proportion of nil claims over the proportion of non-nil claims.

¹⁴³ We checked the presentation of excesses on a number of DCTs and a few insurers' websites.

- 4.32 As explained in paragraph 4.13 above, different choices on different sale channels may be the result of different characteristics of DCT users or, in this case, of the use of different default setting across channels. As defaults can have a significant impact on consumer choices, this is an important factor that may solely persuade consumers to make different choices according to how this option is presented to them.¹⁴⁴ The evidence we have gathered does not indicate which of these two factors are likely to drive the differences in choices of voluntary excesses between channels.
- 4.33 We also found that there is another potentially important difference both across and within channels, namely the way results are presented to consumers, with variable levels of compulsory excess alongside the voluntary excess. This can potentially confuse consumers and make their choice more complex.
- 4.34 For the reasons above, we recommend the FCA to consider two issues in detail. The first one relates to the drivers of the different level of voluntary excesses chosen on different channels. In particular, the FCA should seek to understand whether the default settings have an impact on consumer choices and, if so, whether this leads to any consumer detriment. The second issue we recommend the FCA to consider is whether the way in which compulsory excesses are presented alongside voluntary excesses is likely to significantly impact the comparability of insurance offers and consumer choices.¹⁴⁵

Have DCTs affected product features/mix in our focus sectors?

- 4.35 In order to understand whether DCTs have led to detrimental hollowing out in our case study sectors, we have considered whether they have affected the product features/mix offered by suppliers. This is a key question as the main detrimental consequence of pure hollowing out is that it leads to an overall reduction in product quality (in various terms such as product features and/or mix). For this reason, we have given significant weight to the evidence we have assessed to answer this question.
- 4.36 We have heard mixed views on whether DCTs have affected the product features/mix offered by suppliers. Most insurance companies told us that DCTs have focused consumers' attention on price and some have said that this has reduced their ability to innovate and offer high quality products. However, they have not provided any evidence on this. Other insurers said that DCTs have made suppliers adapt their propositions across various channels by offering tiered products or increasing the range of products and

¹⁴⁴ FCA, [Financial capability: A behavioural economics perspective](#), July 2008.

¹⁴⁵ The FCA did not include excesses within their market study on the [General insurance add-ons](#).

policies offered on DCTs. Defaqto said that the quality of products has improved over time in insurance and, as a result, they have seen the number of 4-star and 5-star products increasing.

Do DCTs use quality ratings and how are these used on DCTs?

- 4.37 One way to mitigate the risk of hollowing out is to present product information other than price to consumers to help them assess a wide range of product dimensions. This can be done, for example, by using quality metrics and/or reviews. We have therefore reviewed whether DCTs do so and, if so, how they present them on their websites.
- 4.38 The five largest DCTs use quality ratings, developed internally, or more commonly using third party ratings such as those provided by Defaqto. DCTs which do not yet do so, or do not use them in all sectors, are developing them across sectors, starting with insurance. One DCT said that in insurance it uses a combined quality rating based on claims handling, policy features and customer service. In credit cards, it provides high level pros and cons for the specific product as well as additional qualitative information to assist consumers to make better decisions. In energy, another DCT includes the results of a customer service poll for suppliers within its results. Some DCTs in flights are starting to develop quality ratings based on consumer feedback on the consumer journey in the booking process and on customer complaints. However, presenting quality ratings to consumers is not straightforward. One DCT said that following the launch of its quality scores, feedback from customers was that the extended results table, including quality scores for core policies and add-ons, was unwieldy and confusing.
- 4.39 There are significant differences both between individual DCTs and sectors around the stage of the consumer journey when quality ratings are presented. Some DCTs offer ratings on sections of their websites that are separate from the results page. Consumers are less likely to consider quality ratings alongside price in their decision-making process where price and quality ratings do not appear next to each other.
- 4.40 Although DCTs have started to develop tools which prevent or reduce the risk of hollowing out, their effectiveness at this stage is unclear. Therefore, we recommend that regulators consider whether these quality metrics are effective in helping consumers choose the right products for their needs.

Do consumers use quality ratings and what is their impact?

- 4.41 In order for quality ratings to have an impact on consumer's choices, consumers need to use them and, more importantly, need to consider them as part of their comparison of products and providers.
- 4.42 There are mixed views on whether quality ratings are used. A Consumer Focus research report from 2012 found that 62% of consumers trust what other consumers tell them more than what companies say.¹⁴⁶ Some research suggests consumers do not know what they are covered for under their home insurance, which would suggest they have not engaged with information on product quality.¹⁴⁷ Some suppliers have told us that quality ratings/reviews are helpful for less known brands to get a foot in the market and for consumers to get a sense of quality, such as customer service.
- 4.43 We have also heard mixed views on whether the ratings which are currently used by some DCTs in general insurance drive consumer choices and therefore incentivise suppliers to improve the quality of their products. For example, one insurer said that suppliers structure their cover to achieve a particular score and potentially hollow out aspects of cover not assessed in a score, or that is in excess of the requirements of the score. A second insurer said that the ratings provide a fair view on product quality, but that they may focus on cover and do not take into account service quality.
- 4.44 In relation to whether quality ratings do have an impact on consumers' choices, an insurer said that although DCTs have moved to implement better information on products, including reviews and ratings, motor and home insurance comparison is very much still a price comparison market with all result screens defaulting to display by price. However, evidence provided by some suppliers and Defaqto shows that quality metrics do have an impact, although limited, on consumer choices. For example, the click-through rate to a supplier is affected by the availability of the rating and the score of the supplier's product. A DCT indicated that ratings had the impact of shifting consumers away from interactions with only the top three ranked providers towards providers further down the ranking in home insurance. Similarly, some evidence indicates that suppliers with a two star-rated policy had a higher click through rate when the star ratings were not shown and that suppliers with three star-rated policy had a higher click through rate when the star ratings were shown.

¹⁴⁶ Consumer Focus, *In my honest opinion*, 2012.

¹⁴⁷ YouGov, *Home Insurance*, 2017.

Summary

- 4.45 Throughout the study various stakeholders expressed strong concerns that DCTs can lead to hollowing out of products, especially in insurance, but these views were not supported by evidence. The evidence does not suggest that DCTs have generally led to harmful hollowing out in the markets we have looked at. However, the risk of hollowing out arising from suppliers responding to consumer focus on price, could be mitigated by giving more prominence to appropriate quality measures alongside price. Although this is already happening to some extent, the presentation of quality metrics should be encouraged and improved in the future.
- 4.46 One particular issue we identified is the presentation of excesses; we recommend that the FCA looks at this issue. We also recommend that regulators work with the industry to identify how presenting quality measures could help consumers to make the right decision and minimise any potential risk of hollowing out.

Non-brand bidding and negative matching agreements

- 4.47 Depending on the search term a consumer uses, search engines display adverts at the top of the results page,¹⁴⁸ above the 'organic' search results and with a similar appearance to those results. The ads that appear as a result of a particular search term are typically determined by an auction process relating to the words used by the consumer in their search (ie the search term).¹⁴⁹
- 4.48 Both DCTs and suppliers seek to generate web traffic from paid search by bidding on a range of generic and brand based terms which might lead to a DCT bidding on a search term that includes a supplier's brand (for example 'compare cheap energy supplier X'). We are aware of the existence of agreements between DCTs and suppliers that determine bidding behaviour on paid search platforms. In the following sub-sections we:
- (a) identify three different types of agreement and their relative prevalence;
 - (b) set out the potential harm and benefits of such agreements;

¹⁴⁸ These adverts are also referred to as paid search results.

¹⁴⁹ These auctions occur when a consumer enters a search term. The ads that appear depend on the advertisers who place a bid, the size of those bids and factors such as an advertiser's relevance to the search term being used or the quality of the webpage a consumer would see when clicking on an advertiser's ad. For example, see [Google AdWords](#) and [Bing ads](#).

- (c) discuss the incentives of suppliers and DCTs in entering into such agreements;
- (d) discuss the evidence we have gathered in relation to consumer behaviour; and
- (e) summarise our assessment of how these may affect competition.

Types of agreements between DCTs and suppliers in paid search

4.49 Suppliers and DCTs have provided us with a range of information on agreements relating to paid search. We have analysed this evidence, including example contracts and have identified three broad types of agreement between DCTs and suppliers regarding the auction process.¹⁵⁰ As a result of these agreements, the ads generated in response to search terms used by consumers that include brand names may be affected.¹⁵¹

4.50 The three types of agreement we have identified are:

- (a) **Narrow non-brand bidding** – where one advertiser (ie the ‘restricted advertiser’) agrees not to bid on another advertiser’s brand name when the search term only includes that brand name.
- (b) **Wide non-brand bidding** – where the restricted advertiser agrees not to bid on another advertiser’s brand name when the search term includes that brand name alone or with other (non-brand related) words (eg ‘broadband’, ‘insurance’, ‘compare’, ‘prices’, etc).¹⁵²
- (c) **Negative matching** – is where the restricted advertiser agrees to add another advertiser’s brand name to its ‘negative keywords’, which prevents its ad appearing when the search term includes that brand name alone or with other (non-brand related) words (eg ‘broadband’, ‘insurance’, ‘compare’, ‘prices’, etc).¹⁵³

4.51 Although these three types of agreement are broadly similar, their impact on when a restricted advertiser’s ad can appear differs.

¹⁵⁰ These agreements can be reciprocal.







¹⁵¹ This may include trade names, product names, etc.

¹⁵² The exact scope of a wide non-brand bidding agreement depends on the exact combination of brand and other (non-brand related) words covered in the agreement. The examples of wide non-brand bidding agreements that we have seen appear to cover all combinations of brand and other (non-brand related) words. Therefore, the analysis set out here is on that basis.

¹⁵³ Keywords and negative keywords are used to determine which search terms an ad can appear in relation to. See [Google AdWords](#) or [Bing ads](#) for more information on negative keywords.

4.52 In particular, as set out in Figure 4.1, this is the case when a consumer's search term includes both the brand name and other (non-brand-related) words.

Figure 4.1: Impact of agreements on ads that can appear

Search term	Type of agreement	Can Brand Y's ad appear?	
1. Brand name only 'Brand X'	a) Narrow		Brand Y cannot bid, so it cannot appear.
	b) Wide		
	c) Negative matching		Brand Y is automatically removed from the auction, so cannot appear.
2. Brand name and other words 'Compare Brand X widget deals'	a) Narrow		Brand Y can bid, so can appear.
	b) Wide		Brand Y may appear if it bids on the other (non-brand related) words. (ie 'compare widget deals')
	c) Negative matching		Brand Y is automatically removed from the auction so cannot appear.

Source: CMA analysis.

4.53 Negative matching agreements are implemented by using 'negative keywords' (ie an advertiser adds the relevant terms to their negative keywords). The use of negative keywords may be a practical way for a restricted advertiser to ensure that it does not breach wide non-brand bidding agreements. This is because a brand owner may not be able tell if a restricted advertiser's ad has appeared because:

- (a) the restricted advertiser has actively bid on the relevant search term; or
- (b) the restricted advertiser has not actively bid on the relevant search term, but appeared due to relevance (see scenario 2.b) in Figure 4.1).

4.54 If a brand owner cannot distinguish between (a) and (b), the brand owner may treat the restricted advertiser as in breach of a wide non-brand bidding agreement whenever the restricted ad appears in response to a search

















containing the brand owner's brand terms.¹⁵⁴ Consequently restricted advertisers may have an incentive to include the brand owner's brand terms in their negative keywords to ensure they do not breach wide non-brand bidding agreements.




- 4.55 As negative matching agreements explicitly include the use of 'negative keywords' this means that wide non-brand bidding and negative matching agreements may be implemented by a restricted advertiser in the same way. This means that these two agreements may have the same effect in practice.
- 4.56 Despite this we have kept these two agreements separate here because, where negative keywords are not used to implement wide non-brand bidding, they are likely to differ in their impact on competition between advertisers. In addition, it is not clear that negative keywords are the least restrictive way of ensuring compliance with wide non-brand bidding agreements. It might be possible to implement wide non-brand bidding agreements without the use of negative keywords and therefore for wide non-brand bidding agreements not to replicate negative matching agreements. For example, this may be possible through audits of the keywords used by restricted advertisers.
- 4.57 Agreements between DCTs and suppliers that determine bidding behaviour on paid search platforms exist in all of our case study sectors to some extent, but negative matching agreements only appear prevalent in broadband (see figure 4.2).¹⁵⁵ We have also heard that these agreements are in place between suppliers and other marketing / sales channels where affiliate networks operate.

¹⁵⁴ Where the restricted advertiser is a DCT this may mean that the DCT receives no commission.

¹⁵⁵ This is consistent with our findings on negotiating power, see paragraphs 2.63–2.64.

Figure 4.2: Relative prevalence of agreements by sector

Sector	Restrictions on suppliers' advertising		Restrictions on DCTs' advertising	
	Non-brand bidding	Negative matching	Non-brand bidding	Negative matching
Broadband				
Credit cards				
Flights				
Home Insurance				

Key: Based on the limited sample we have observed  indicates a relatively high level of prevalence,  a medium level of prevalence and  a relatively low level of prevalence.

Source: CMA analysis of information provided by DCTs and suppliers.

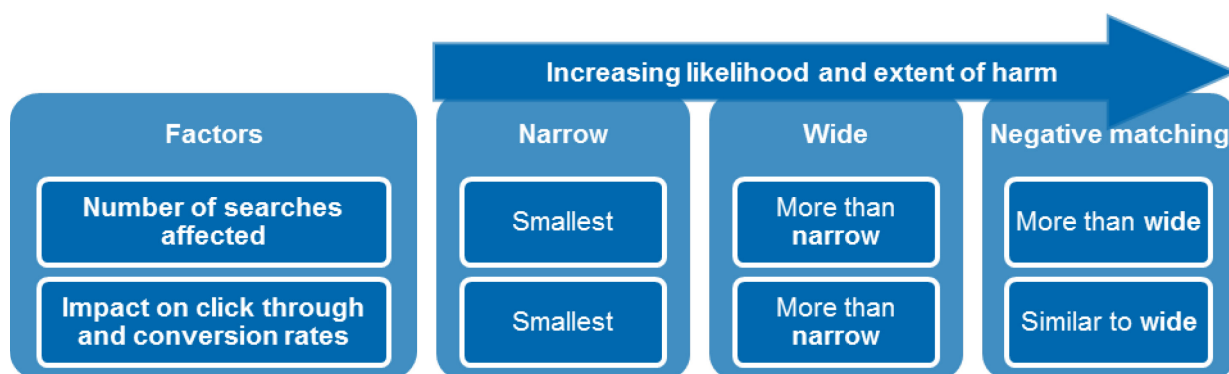
Potential for harm

- 4.58 Agreements which restrict advertisers' use of paid search may lead to a reduction in competition as they could decrease advertisers' visibility to consumers who make searches using the restricted brand names. This may lead to consumer harm as:
- (a) An agreement that prevents a DCT appearing in response to a search that includes a supplier's brand can reduce the competitive constraint that supplier faces from other suppliers listed on that DCT, which is likely to dampen competition between suppliers.
 - (b) An agreement that prevents a supplier appearing in response to a search that includes a DCT's brand can reduce the competitive constraint that DCT faces and could lead to increased commission fees and/or reductions in quality and innovation.
- 4.59 As set out in Figure 4.2 we have seen more evidence of the former, where we would also expect consumer harm to be more likely. This is because:
- (a) restrictions by suppliers on the bidding behaviour of DCTs potentially reduces the visibility of DCTs and the impact DCTs have on competition between suppliers; and
 - (b) DCTs are likely to face a greater competitive constraint from other DCTs than a supplier's direct channel such that, as with narrow MFNs (see

paragraphs 3.51 to 3.54), we are less concerned about the removal of the supplier's direct channel as a constraint on DCTs.

- 4.60 The potential for consumer harm depends on the extent of the competitive constraint removed by the agreements. This in turn depends on consumer behaviour, that is, how consumers search for products / services and how they react to the ads they see. For example, the more consumers use brand terms in their searches the higher the likelihood and extent of harm.
- 4.61 The main factors relating to consumer behaviour that we would consider when assessing these types of agreements are:
- (a) the number of searches affected by the agreements;
 - (b) the proportion of consumers who would click-through to the restricted advertiser on seeing the restricted advertiser's ad (the click-through rate), and the proportion of those consumers who would go on to purchase through the restricted advertiser (conversion rate); and
 - (c) the impact of these agreements on the brand owner's click-through and conversion rates.
- 4.62 These factors are likely to differ across the three types of agreement we have observed (see Figure 4.3). In particular:
- (a) Negative matching agreements are likely to affect a greater number of searches than wide non-brand bidding and narrow non-brand bidding. This is because negative matching agreements affect all searches that include the brand owner's name irrespective of the context whereas with wide non-brand bidding a restricted advertiser may still appear due to relevance (see Figure 4.1). Further, narrow non-brand bidding only relates to a sub-set of the terms covered by the other agreements.
 - (b) Wide non-brand bidding and negative matching agreements are likely to have a bigger impact on click-through and conversion rates (both for the restricted advertiser and for the brand owner) than narrow non-brand bidding. This is because these agreements are more likely to cover search terms that consumer use to shop around (eg 'compare Brand X deals'). In this case the consumer would be more likely to click on the link of the brand owner's rival (eg on a DCT's link) if that appeared in response to the search term. In contrast, narrow non-brand bidding relates to brand name only searches. These searches are likely to be used by consumers for a range of reasons not related to shopping around (eg customer service) so that consumers would be less likely to click on any link other than the brand owner's.

Figure 4.3: Likelihood and extent of harm by type of agreements



Source: CMA analysis.

4.63 Therefore, there appears to be greater scope for consumer harm in the case of negative matching agreements.¹⁵⁶ In addition, consumer harm is likely to be greater when these agreements:¹⁵⁷

- (a) Are put in place by more and larger brands, as this means the agreements are likely to affect a higher number of consumer searches.
- (b) Restrict the bidding behaviour of more and larger advertisers, who, absent the agreements, would not engage in negative matching.

For example, in one sector these types of agreements were included as standard clauses in major suppliers' contracts with DCTs.

Potential efficiencies

4.64 Parties have told us that these agreements may have some efficiencies as they may:

- (a) prevent a rival from free-riding on a brand owner's investments;
- (b) reduce the risk of consumers becoming confused when searching for a particular brand; and
- (c) reduce the marketing costs of brand owners.

We look at each of these in turn below.

4.65 First, depending on the context, there may be a free-riding justification for brand-bidding agreements. Such agreements may prevent rivals benefiting

¹⁵⁶ These types of agreement may also act as a barrier to entry and / or expansion by making it more difficult to for a DCT to base its marketing strategy on the use of targeted keywords. Again, this is more likely, and therefore harm is more likely, in relation to negative matching agreements.

¹⁵⁷ These factors may also contribute to the size of potential efficiencies which are discussed below.

from each other's brand investment which may increase brand owners' incentives to invest, for example, in the quality of their product offerings.

- 4.66 However, this justification is less relevant in relation to negative matching agreements which prevent a rival that has not bid on the brand appearing even when the search engine has independently determined the 'restricted' rival to be relevant to the search term in question.
- 4.67 We would also expect the free-riding justification to be less relevant in relation to wide non-brand bidding agreements compared to narrow non-brand bidding agreements. This is because wide non-brand bidding agreements relate to a wider set of terms some of which may indicate that the consumer is not actively searching for the brand (eg 'compare alternatives to Brand x').
- 4.68 Second, parties have told us that by ensuring that the brand owner's ad is at the top of the results these agreements prevent any harm arising from consumers becoming confused.¹⁵⁸ The exact mechanism through which this would occur is not clear. However, two possible explanations are that:
- (a) Consumers may become confused and be misdirected to a rival's website and purchase from a website they did not want to use.¹⁵⁹
 - (b) Consumers may become confused, but ultimately correctly identify the correct website which means they waste time navigating to the correct website.
- 4.69 However, while plausible, we have not seen any substantive evidence that rival advertisers' ads appearing would lead to consumers becoming confused.¹⁶⁰ In addition, we expect this to be less of an issue when the source of the ad is clear to the consumer.
- 4.70 Third, parties have told us that these agreements may reduce the marketing costs of brand owners. Parties told us that bidding on rivals' brands may

¹⁵⁸ In addition, one supplier told us that if non-brand bidding agreements were not in place, it is less likely that the brand the consumer is actively looking for would appear within the search engine results. Therefore, if these agreements were not in place fewer consumers would see ads for the brand they are searching for. The supplier also said that this may lead to a further lack of trust in the sector.

¹⁵⁹ One supplier said that consumers may become confused because consumers find it hard to distinguish between suppliers and DCTs.

¹⁶⁰ Consumer research could be used to test whether rival advertisers' ads confuse consumer. In this regard, Franklyn and Hyman (2013) did not find strong evidence in relation to the type of confusion outlined above. Rather consumers were often confused about what results were ads and what were 'organic' search results. Franklyn and Hyman (2013), [Trademarks as search engine keywords: much ado about something?](#), Harvard Journal of Law and Technology, Vol. 26, Number 2 Spring 2013.

increase the amount a brand owner has to pay for each ad (eg due to an increase in the number of bidders).

4.71 Parties also told us that bidding on rivals' brands may increase marketing costs for the brand owner because:

- (a) it leads to consumers using more expensive sales channels (eg instead of arriving directly at and purchasing from the supplier's website consumers may instead purchase through a DCT);¹⁶¹ and
- (b) it leads to the brand owner paying for more of the traffic it attracts to its website (eg consumers who would have used the brand owner's 'organic' search result in the absence of rival ads instead use the brand owner's ad).¹⁶²

4.72 Therefore, these agreements, by preventing rival advertisers appearing, may reduce the brand owner's marketing costs. Some parties said that this may, in turn, lead to DCTs charging lower commissions to suppliers, suppliers charging lower prices to consumers and DCTs and suppliers offering better services to consumers.¹⁶³

4.73 Again, while plausible, we have not seen any substantive evidence that bidding on rivals' brands would lead to material increases in marketing costs or the impact this would have on consumers.

4.74 Overall, the free-riding efficiency appears more likely to hold for narrow non-brand bidding but it is less credible for wide non-brand bidding and especially negative matching agreements. Further, while plausible, we have not seen any substantive evidence on the other potential efficiencies.

Potential impact of these agreements

4.75 The extent to which these agreements may lead to consumer harm depends on:

- (a) the incentives of the parties – if parties do not have the incentive to bid on rivals' brands, then these agreements are unlikely to have a significant

¹⁶¹ See Appendix 3 for a discussion of the relative costs of acquisition through different channels.

¹⁶² A DCT said that while rivals' ads appearing does not materially affect the number of consumers the brand owner attracts it does affect how those consumers arrive at the brand owner's website. In particular, it increases the proportion of consumers arriving via ads rather than the 'organic' search results. The DCT cited research from Simonov, A, Nosko, C and Rao J M (2015), [Competition and Cannibalization of Brand Keywords](#) (September 2015).

¹⁶³ Based on the evidence we have received we understand that these marketing costs are treated as a fixed cost by DCTs and suppliers. Therefore, while any changes in marketing costs would not have a direct impact on commissions / prices they would in the long run lead to changes in commissions / prices and / or the level of marketing.

impact on their bidding behaviour and therefore unlikely to lead to consumer harm; and

(b) the behaviour of consumers (see paragraphs 4.60 to 4.62).

We discuss the evidence we have gathered on each of these points in turn below.

Parties' incentives

- 4.76 We have not received many complaints about these types of agreements and have not seen strong evidence that they are reducing the ability of advertisers to compete for consumers.¹⁶⁴
- 4.77 In part, this may be due to a lack of unilateral incentives for some advertisers have to engage in bidding on rivals' brands which, if true, suggests that these agreements have no impact on advertisers' behaviour. For example, some respondents have stated that they have no commercial incentive to bid on others' brand names due to the costs involved. This is because advertisers have to pay more the less relevant they are deemed by the search engine, and for searches involving rivals' brand names the advertiser is generally deemed less relevant by the search engine.¹⁶⁵
- 4.78 On the other hand, we have seen that these agreements are prevalent in some sectors. In addition, we understand that, at least in some cases, brand owners actively monitor and enforce these agreements and advertisers take them into account when determining the keywords they use.¹⁶⁶ This indicates that these agreements do affect the bidding behaviour of advertisers.¹⁶⁷

Consumer behaviour

- 4.79 As set out above (see paragraphs 4.60 to 4.62) the potential for consumer harm from non-brand bidding and negative matching agreements depends on consumer behaviour. Harm is more likely when these agreements affect a larger number of results that consumer see in response to their search terms and when consumers would be more likely to click-through and purchase on a

¹⁶⁴ While four DCTs have told us that these types of agreement may restrict competition only one of these DCTs has actively stated that these agreements are a barrier to effective competition.

¹⁶⁵ In addition, some respondents have cited the impact bidding on rivals' brands would have on the commercial relationship with the relevant brand, that bidding on rivals' brands is unlikely to drive significant traffic and that consumers attracted via bidding on rivals' brands would have low conversion rates.

¹⁶⁶ In some cases brand owners use third parties to monitor and enforce these agreements.

¹⁶⁷ We have collected some limited evidence on the cost effectiveness of bidding on rivals' brands. While the evidence shows that it is less cost effective than bidding on one's own brand it is not clear that it is always less cost effective than bidding on generic terms.

restricted advertisers' website rather than the brand owner's website absent the agreements.

4.80 To assess how widely these restrictions affect the results that consumers see in response to their search terms, we have conducted some analysis of the search terms used by consumers in one of our focus sectors. We did this to understand the relative importance of different types of search so we focused on:

(a) 'generic-only' searches— these searches included 'generic' keywords that indicate a consumer may be shopping around (eg compare, comparison, deals, etc) with 'non-brand product' keywords (eg widgets); and

(b) 'generic and brand' searches) – these searches included 'generic' keywords (eg compare) with suppliers' 'brand' keywords (eg brand X).

4.81 We understand that 'generic-only' searches, which are not covered by non-brand bidding and negative matching agreements, are an important source of traffic for DCTs. Therefore, this group of searches provides a useful benchmark against which to assess the use of 'generic and brand' searches which may be affected by these agreements.

4.82 We did not add 'brand-only' search terms to our analysis. This is because 'brand-only' searches (eg 'brand X' or 'brand X widgets')¹⁶⁸ are likely to be used by consumers for a range of reasons not related to shopping around (eg customer service). Therefore, while some of these searches may be related to search,¹⁶⁹ including all 'brand-only' searches is likely to provide a misleading impression of the impact of the non-brand bidding and negative matching agreements.¹⁷⁰ In addition, as outlined above, we are less likely to be concerned about narrow non-brand bidding agreements which only cover 'brand-only' searches.

4.83 Our analysis was based on data for the last 12 months collected from Google Trends which shows the relative usage of different search terms. Data was collected based on a sample of search terms to understand their relative

¹⁶⁸ Searches that include suppliers' 'brand' keywords only or suppliers' 'brand' keywords with 'non-brand product' keywords.

¹⁶⁹ To the extent this is the case we are likely to underestimate the impact of these agreements.

¹⁷⁰ Consistent with this the usage of 'brand-only' search terms is materially higher (roughly 3.5 times) than 'generic-only' and 'generic and brand' search terms combined.

importance. Based on this sample, the volume of 'generic and brand' searches was about two thirds of the level of 'generic-only' searches.¹⁷¹

- 4.84 It is important to highlight that this analysis is only indicative. This is because it only relates to one sector, it may not capture all relevant search terms that consumers used when shopping around,¹⁷² and it can only show us the relative importance of these searches rather than the absolute numbers.
- 4.85 However, our analysis indicates that 'generic and brand' searches are widely used by consumers and therefore that wide non-brand bidding and especially negative matching agreements (given they cover all 'generic and brand' searches) may have an impact.¹⁷³
- 4.86 In addition to this analysis we have gathered some limited evidence on consumer click through and conversion rates. This evidence suggests that click through and conversion rates may be lower for ads appearing against others' brand terms when compared to own brand terms or generic terms.¹⁷⁴ However, the evidence also shows that advertisers are still bidding on others' brand terms and that the click through and conversion rates for doing so are positive.
- 4.87 While not conclusive this evidence on search terms and click through and conversion rates suggests that these agreements may have an impact.

Summary

- 4.88 Our analysis suggests that wide non-brand bidding and negative matching agreements could affect the paid search results that consumers see in response to their search terms. However, from the evidence we gathered as part of this study it is unclear to what extent these agreements affect DCTs' bidding behaviour and the results consumers see. In addition, it is not clear that the agreements currently have a significant impact on consumers' shopping around and purchasing behaviour in practice even if paid search results are affected.

¹⁷¹ This analysis was based on data for the United Kingdom collected from [Google Trends](#) on 30 and 31 August 2017. As the data provided on Google Trends is about relative usage of search terms, rather than absolute usage, we used a common 'baseline' search term when collecting our data. This allowed us to normalise the data to be used in our analysis and make a comparison across groups of search terms. Data was collected based on a 12-month average. The analysis, including 'brand-only' search terms looked at a total of 380 search terms.

¹⁷² The results are sensitive to the search terms tested. Missing a search term that consumers frequently use can have a significant impact on the proportions of 'generic and brand' and 'generic-only' searches.

¹⁷³ We have also seen evidence that in two of our focus sectors searches that include 'brand' keywords make up a significant proportion of the traffic attracted by suppliers from ads. However, it is not clear to what extent these are 'brand-only' searches or 'brand and generic' searches.

¹⁷⁴ Several parties also told us that they would expect click through and conversion rates to be lower when bidding on rivals' brands.

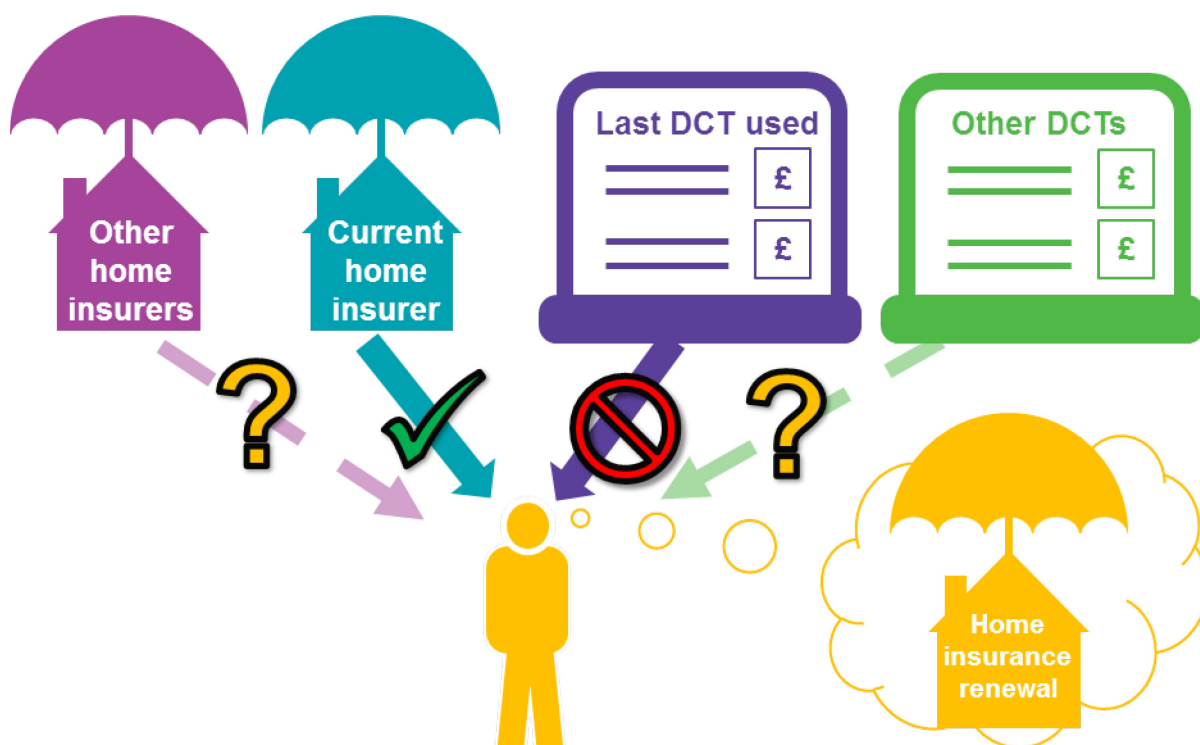
- 4.89 However, our view is that some forms of these agreements, especially those that include negative matching, have the potential to lead to consumer harm. Given this, and the prevalence of these agreements, these agreements remain an area of interest to the CMA and we will seek to increase our understanding of their impact.

Non-resolicitation clauses

- 4.90 Non-resolicitation clauses are clauses in contracts between DCTs and suppliers whereby a DCT agrees not to contact customers who have purchased a supplier's product from that DCT (in respect to the same product type) for a certain period.
- 4.91 Such agreements do not prevent DCTs from undertaking non-targeted general marketing. Instead, they prevent a DCT through which a consumer has purchased a supplier's product from marketing its services to that consumer for the same product type, typically for a specific period.¹⁷⁵
- 4.92 As shown in Figure 4.4, using home insurance as an illustrative example, the customer can still receive specific marketing material from their current supplier. Other DCTs and other/previous suppliers could also send specific marketing material (ie material that is targeted at the customer and relates to the renewal of the contract) to the customer. However, their ability to do so depends on whether they know the customer's details and information about their current contract.

¹⁷⁵ It is not clear if and how often suppliers monitor DCTs' compliance with these clauses. However, we understand that this might be done by occasional audits or by observing sudden drops in customers' retention rates.

Figure 4.4: Non-resolicitation clauses



Source: CMA analysis.

4.93 These clauses are present in agreements between DCTs and suppliers in the energy, home insurance and motor insurance sectors.¹⁷⁶ We calculated that in home insurance, these clauses are present in contracts of suppliers that accounted for around 50 to 60% of consumers' purchases through DCTs in 2016. In energy, they covered respectively around 25% and 75% of two large DCTs' sales in 2016.¹⁷⁷

4.94 In the remainder of this section, we:

- (a) describe the potential harm that these clauses could cause;
- (b) discuss any potential efficiency justification that could reduce or offset any harm;
- (c) analyse the prevalence and current impact of these clauses in home insurance and energy; and
- (d) draw our conclusions.

¹⁷⁶ Only one DCT mentioned that these clauses have existed in the mobile industry. Since we have not received or collected any other evidence on this, we have not analysed non-resolicitation clauses in this sector in detail.

¹⁷⁷ We have not collected evidence on the coverage in motor insurance. However, we have seen some anecdotal evidence that suggests that these clauses are prevalent in motor insurance.

Theories of harm

- 4.95 Non-resolicitation clauses may reduce the competitive constraints on the incumbent supplier and this can result in higher prices for consumers.¹⁷⁸ This is because these clauses potentially distort: (i) competition between suppliers; and (ii) innovation by DCTs.

Competition between suppliers

- 4.96 Non-resolicitation clauses reduce the ability of an individual DCT to resolicit a specific customer, typically for a specific period. As a result, after the initial purchase, the visibility of the DCT to the consumer may be reduced during that period.
- 4.97 This can potentially lead to lower levels of consumer shopping around and switching, weakening the competitive constraint faced by a supplier from all the suppliers listed on that DCT. This could lead to higher renewal prices,¹⁷⁹ for example because the consumer is more likely to roll over to a contract with less favourable terms.¹⁸⁰

Innovation by DCTs

- 4.98 Non-resolicitation clauses can reduce the ability and/or incentive of DCTs to innovate in their marketing and advertising by, for example, preventing them from providing automated reminders about the renewal of the contract or tailored newsletters about new products coming to market.¹⁸¹ This concern was raised by DCTs as well.
- 4.99 Consumers can potentially receive automated reminders or tailored newsletters from other suppliers or DCTs if they multi-homed at the time of their initial purchase. This can potentially reduce the harm, especially for multi-homing consumers.¹⁸²

¹⁷⁸ The incumbent supplier is the supplier with whom the consumer has a contract.

¹⁷⁹ However, two suppliers have told us that the removal of these clauses could increase first year renewal prices as a consequence of a reduction in the life-time value of the products.

¹⁸⁰ The distinction between introductory and renewal prices is most appropriate for insurance products. In energy, an equivalent argument can be applied by considering the introductory price as the cost of a fixed term tariff and the renewal price as the cost of the tariff that the consumer would default to at the end of the fixed term.

¹⁸¹ One DCT has told us that if a DCT is not able or willing to distinguish between consumers who have purchased a product from a supplier with a non-resolicitation clause and those who purchased from a supplier without these clauses, the harm on innovation can be more widespread. This is because the DCT would end up applying the most restrictive contractual provision across all of its activity, not just to those customers where a provision explicitly applies.

¹⁸² For example, if before purchasing an insurance product on DCT A a consumer has also generated quotes on DCT B, DCT B is able to send the consumer prompts accurately timed around the expiry of the contract.

When harm is more likely

4.100 It is more likely that non-resolicitation clauses distort competition between suppliers and innovation by DCTs when:

- (a) a greater proportion of suppliers and consumers are covered by such clauses;
- (b) these clauses prevent resolicitation for a longer time and during key periods;¹⁸³ and
- (c) resolicitation has a significant impact on consumers' choices.

4.101 For example, if the last condition is not met, that is if: (i) resolicitation communications are not effective in raising consumer engagement; and/or (ii) there are alternative ways in which consumer engagement can be raised after the initial purchase on a DCT, then harm from non-resolicitation clauses is unlikely. We assess conditions (a) to (c) for home insurance and energy in paragraphs 4.127 to 4.137.

Potential efficiency justifications

4.102 We have heard some potential efficiency justifications that could offset the harm potentially caused by non-resolicitation clauses:

- (a) these clauses prevent resolicitation shortly after the purchase;
- (b) these clauses contribute to lower introductory prices;
- (c) non-resolicitation incentivises suppliers to invest in their brand-customer relationship; and
- (d) these clauses have a positive impact on competition between DCTs.

4.103 We consider these in the following paragraphs.

Resolicitation shortly after the purchase

4.104 Non-resolicitation clauses prevent the DCT from approaching the consumer shortly after the acquisition. This ensures that the supplier will not pay a

¹⁸³ For example, the 28 to 30 days' renewal period of an insurance product or the last month of an energy, fixed-tariff contract.

commission for acquiring a consumer for such a short period that the acquisition cost¹⁸⁴ cannot be recouped.¹⁸⁵

4.105 In a scenario where DCTs resolicited and induced many consumers to switch shortly after each purchase, suppliers' incentives to provide and sell their products on DCTs could be undermined.¹⁸⁶

4.106 However, we have not seen convincing evidence that demonstrates why preventing resolicitation for long periods,¹⁸⁷ particularly in perpetuity, would address such issues.¹⁸⁸

Lower introductory prices

4.107 Non-resolicitation clauses can potentially contribute to lower introductory prices for two reasons:

- (a) non-resolicitation could reduce the prompts to consumers to switch, increasing customer lifetimes on contracts; and
- (b) non-resolicitation could have an indirect positive effect on competition between suppliers for new customers.

4.108 In relation to the first argument, some suppliers have told us that their introductory pricing assumes the acquisition cost of consumers is spread out over the lifetime of the policy. Moreover, several suppliers told us that removing these clauses could raise churn rates.¹⁸⁹ Therefore, removing the clauses could increase introductory prices by reducing the lifetime of contracts.¹⁹⁰

¹⁸⁴ We consider acquisition costs to be one-off costs, for example the cost of entering into contract with a customer or set-up costs, which suppliers incur every time a new customer is acquired, irrespective of the length of the contract.

¹⁸⁵ In [Appendix 9.3 of the EMI Final Report](#) (paragraphs 78–82) the CMA recognised that the removal of non-resolicitation clauses, in the context of low exit fees for consumers, could potentially result in suppliers restricting the fulfillability of their energy tariffs via DCTs to avoid losing customers shortly after their acquisition.

¹⁸⁶ In addition, if the clauses were removed, suppliers could seek alternative methods to prevent consumers from switching in the first months of their contract such as penalties for early contract termination.

¹⁸⁷ And, when relevant, during and beyond the first renewal window of the contract.

¹⁸⁸ This is without prejudice to the application of the European Commission's notice on ancillary restraints (the ancillary restraints notice) or the Vertical Agreements Block Exemption Regulation (VABER) to these agreements. In particular, the exemptions provided by either the ancillary restraints notice or VABER may apply to certain non-resolicitation provisions described in this paper. See Commission Notice on restrictions directly related and necessary to concentrations (2005/C 56/03) and Commission Regulation (EU) No 330/2010 of 20 April 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices (OJ L 102/1).

¹⁸⁹ As switching would increase and renewals decrease.

¹⁹⁰ In other words, the removal of the clause would increase suppliers' costs (in particular in the absence of exit fees), but the tenure of customers would decrease. Suppliers would likely react by increasing prices to consumers.

- 4.109 In relation to the second argument, we have explained in paragraphs 4.96 and 4.97 how non-resolicitation clauses can potentially weaken competition between suppliers and increase renewal prices. Therefore, suppliers may have an incentive to compete more fiercely in the introductory phase to increase their customer base and the number of their renewals. As a result, introductory prices can potentially decrease.
- 4.110 However, this would be likely to happen concurrently with a reduction in renewal prices. This is akin to a waterbed effect – a trade-off between prices in a primary market and in a secondary market.¹⁹¹
- 4.111 In our study, it was not possible to determine whether the increase in introductory prices following a removal of non-resolicitation clauses would be equal, greater or smaller than the concurrent reduction in renewal prices. This would differ in each sector and depend greatly on how elastic the demand is at introductory and renewal prices respectively.
- 4.112 Nevertheless, the distributional effects would not be neutral. While consumers who shop-around and switch more would be negatively affected by the increase in introductory prices, less engaged consumers who do not look for a new supplier at renewal could benefit from the reduction in renewal prices.
- 4.113 In any case, we expect any price variation to be larger the more significant is the impact of resolicitation on consumer choices.¹⁹² This is assessed for home insurance and energy in paragraphs 4.131 to 4.137.

Brand-customer relationship

- 4.114 We have heard that the removal of non-resolicitation clauses would undermine suppliers' incentives to invest in their brand-customer relationships. This is because the suppliers would expect to lose many customers shortly after their acquisition.
- 4.115 However, the opposite could also be true, as the risk of losing a customer could also serve as an incentive to invest more in the relationship. We therefore consider that the overall effect of non-resolicitation clauses on these investment incentives (if any) is unclear.

¹⁹¹ A review of the economic literature on the *waterbed effect* is presented in OFT, [The Economics of Secondary Product Markets](#), OFT 2012.

¹⁹² If resolicitation communications are not effective in raising consumer engagement and/or there are other factors that raise consumer engagement enough after the initial purchase on a DCT, then the removal of the clauses would not affect either customers' lifetimes on products or competition between suppliers.

Competition between DCTs

4.116 A stakeholder told us that non-resolicitation clauses prevent any single DCT from becoming dominant. We understand that this is because the clauses could reduce the prospect of the current DCT gaining an incumbency advantage over its customers. Therefore, the removal of these clauses would have a negative effect on competition between DCTs.

4.117 However, we consider that the impact of a removal of these clauses on competition between DCTs (if any) would be unclear. Absent the clauses, the incumbent DCT would only have an incumbency advantage over a customer who has bought a product if:

- (a) the consumer has single-homed when they bought the product;¹⁹³ and
- (b) the consumer reacts to resolicitation communications by checking only the incumbent DCT.

Other justifications

4.118 We have also heard a number of additional efficiency justifications:

- (a) non-resolicitation clauses prevent over-solicitation;
- (b) resolicitation would increase DCTs' marketing costs; and
- (c) DCTs' incentives at resolicitation are biased.

4.119 With respects to the first justification, one supplier has told us that, if non-resolicitation clauses were removed, consumers would likely suffer a diminished customer experience. There would be an incentive for DCTs to over-communicate, prompting customers to switch even if the customer is likely to switch anyway, or if switching is not in the interests of customers for example if the customer is still on an introductory discount.

4.120 However, we do not consider non-resolicitation to be necessary for preventing over-solicitation because:

- (a) there are other, less restrictive ways of avoiding over-solicitation under existing legislation which allows consumers to opt-out of electronic marketing;¹⁹⁴ and

¹⁹³ Otherwise, the other DCTs they have used might also be able to send them solicitation communications.

¹⁹⁴ [ICO Guide on PECR](#).

(b) DCTs have an incentive to avoid over-solicitation to make sure consumers are not discouraged from using them.

4.121 As for the second justification, a stakeholder has told us that the removal of non-resolicitation clauses would increase DCTs' marketing expenditure and raise costs as DCTs would send consumers more prompts. This cost increase would be passed on to final consumers through higher prices.

4.122 However, the major DCTs have large yearly marketing expenditures. Considering this and the fact that DCTs already send other kind of non-targeted solicitation material, it is unlikely that resolicitation would make a sizeable difference on their total marketing costs. It is also possible that resolicitation would in fact reduce marketing costs by improving the targeting of messages. Moreover, if resolicitation communications were too expensive, DCTs would have an incentive not to send them.

4.123 As for the third justification, two suppliers have told us that in any resolicitation communication, the incumbent DCT is incentivised to induce the consumer to switch,¹⁹⁵ potentially hiding the current supplier's offer even if it is the best deal.

4.124 We do not consider this argument as a valid efficiency justification because it is not clear to us whether DCTs would be able and willing to tailor the resolicitation communication to hide for each consumer their current supplier.

Impact of non-resolicitation clauses in home insurance and energy

4.125 In paragraphs 4.100 and 4.101 we outlined that any harm caused by non-resolicitation clauses is more likely when:

- (a) a greater proportion of suppliers and consumers are covered by such clauses;
- (b) these clauses prevent resolicitation for a longer time and during key periods; and
- (c) resolicitation has a significant impact on consumers' choices.

4.126 In the remainder of this section, we analyse the impact of non-resolicitation clauses in home insurance and energy, by examining in turn each of the three conditions listed above.

¹⁹⁵ This is because DCTs generally earn commissions from every acquisition that they generate and not from renewals.

Proportion of suppliers and consumers covered

4.127 We have used data on contracts and sales from DCTs to calculate the share of suppliers and consumers covered by non-resolicitation clauses in home insurance and energy.

4.128 In home insurance we found that:

- (a) between 8% and 54% of the suppliers currently listed on four large DCTs have a non-resolicitation clause in place that prevents resolicitation during the first renewal period of the customer's contract;
- (b) these suppliers represent between 8% and 73% of each DCT's sales in 2016;¹⁹⁶ and
- (c) for 54% of the purchases through DCTs in 2016 a non-resolicitation clause prevented the DCT from re-soliciting a customer during the first renewal period of their contract.¹⁹⁷

4.129 In energy we found that:

- (a) 15% and 35% of the suppliers currently listed on two large DCTs have a non-resolicitation clause in place that prevents resolicitation for at least 12 months after the customer has been acquired; and
- (b) these suppliers represent respectively around 24% and 75% of each DCT's sales in 2016.¹⁹⁸

Length of the prevention

4.130 We have analysed the contract data of four large home insurance DCTs and two large energy DCTs. We found that in both sectors, most of the clauses prevent resolicitation for 12 months or more. In a few cases, the prevention is perpetual. In home insurance, the prevention generally covers the first renewal period of the policy.

Impact on consumers' choices

4.131 Any harm caused by non-resolicitation clauses would be more likely the more resolicitation influences consumers' choices. This condition is necessary for any harm to arise.

¹⁹⁶ This was calculated by matching the information at point (a) with the 2016 sales data of the four DCTs.

¹⁹⁷ This was calculated by giving each of the four DCTs a weight proportional to its total sales in 2016.

¹⁹⁸ This was calculated by matching the information at point (a) with the 2016 sales data of the two DCTs.

4.132 The impact of resolicitation on consumers' choices, in turn, depends on:

- (a) how consumers react to resolicitation communications (eg, if they click through and buy when they receive a resolicitation email); and
- (b) other factors that trigger consumer shopping around and the use of DCTs, thus reducing the relative importance of resolicitation (and non-resolicitation).

4.133 In the following paragraphs, we analyse these two dimensions for home insurance and energy.

4.134 In home insurance:

- (a) As for consumers' reaction to non-resolicitation:
 - (i) for three large home insurance DCTs: (a) less than 10% of consumers click through when they receive any resolicitation and solicitation¹⁹⁹ email;²⁰⁰ and (b) generally resolicitation emails have slightly better click- and buy- rates than solicitation emails; and
 - (ii) overall emails generated between 3% and 15% of these three DCTs' home insurance visits in 2016.²⁰¹
- (b) As for the other factors that trigger consumer shopping around:
 - (i) consumers that have used a DCT in the first place, are more likely than less engaged consumers to use a DCT again, irrespective of any emails they receive from their DCT;²⁰²
 - (ii) between 14% and 16% of the consumers who buy a home insurance product through a DCT have used more than one DCT;²⁰³ these consumers may receive solicitation emails from the DCT(s) they have used, but not bought from, irrespective of any non-resolicitation clause;²⁰⁴

¹⁹⁹ By re-solicitation here we mean emails sent by a DCT to consumers that have bought a product through the DCT, while by solicitation we mean emails sent by a DCT to consumers that have used the DCT, but have not bought the product they searched for with that DCT.

²⁰⁰ Even if a consumer does not click through to a DCT in response to a resolicitation email, resolicitation may prompt consumers to shop around in other ways. However, we do not have evidence on this.

²⁰¹ This data refers to all emails and not to resolicitation emails only.

²⁰² Kantar public survey showed that eight in ten DCT users had used a DCT in the same sector before. In addition, almost half of DCT users cited having used that DCT before as a reason for using a specific DCT. Page 103 in Kantar, *Digital Comparison Tools: Consumer Research Final Report*, March 2017.

²⁰³ CMA analysis of four large home insurance DCTs' quotes data for three months in 2016.

²⁰⁴ One DCT has told us that [X].

- (iii) between 22% and 46% of consumers who acquire a home insurance through a DCT do not renew their contract after the first year;²⁰⁵ a material proportion of these consumers is likely to have shopped around and possibly used a DCT before/at the end of the first year;²⁰⁶ and
- (iv) new requirements on insurers to support consumers' engagement at renewal are likely to increase the proportion of consumers who shop around and use a DCT at the end of the first year of a home insurance contract.²⁰⁷

4.135 Resolicitation is likely to be a prompt for at least some consumers to shop around and, as a result, non-resolicitation clauses may reduce the benefits to consumers from using DCTs. However, the evidence collected does not currently show a material negative impact in home insurance.

4.136 In energy:

- (a) As for consumers' reaction to non-resolicitation, overall emails generated between 8% and 19% of four large DCTs' energy visits in 2016.²⁰⁸
- (b) As for the other factors that trigger consumer shopping around:
 - (i) consumers that have used a DCT in the first place, are more likely than less engaged consumers to use a DCT again, irrespective of any emails they receive from their DCT;²⁰⁹
 - (ii) Kantar public survey showed that around 59% of consumers using energy DCTs used more than one DCT the last time that they looked for an energy product; these consumers may receive solicitation emails from the other DCT(s) they used, but did not buy from;²¹⁰ and

²⁰⁵ CMA analysis of eight insurers' renewals data.

²⁰⁶ The same analysis has shown that generally a large share of the renewals is automatic. This implies that not to renew their policy a consumer generally has to actively interrupt their current coverage and possibly switch insurer.

²⁰⁷ See: FCA, [FCA Policy Statement: Increasing transparency and engagement at renewal in general insurance markets, PS16/21](#). These rules came into force on 1 April 2017 and require insurance suppliers to: (i) disclose last year's premium at each renewal; (ii) include text to encourage consumers to check their cover and shop around for the best deal at each renewal; and (iii) identify consumers who have renewed with them four consecutive times, and give these consumers an additional prescribed message encouraging them to shop around.

²⁰⁸ This data refers to all emails and not to resolicitation emails only.

²⁰⁹ See footnote 212.

²¹⁰ See Figure A.8 in Paper A.

- (iii) evidence from one energy supplier²¹¹ showed that only a small proportion of its customers acquired through a DCT and who start on a fixed tariff transition to a variable tariff. We consider that many of the remaining customers are likely to have shopped around and possibly had used a DCT before/at the end of their fixed tariff.²¹²

4.137 As discussed in paragraph 4.135, non-resolicitation clauses may reduce the benefits of using DCTs for at least some consumers. However, based on our assessment, there is no clear evidence suggesting that currently non-resolicitation clauses have a material impact in energy.

Summary

4.138 In this section, we have examined non-resolicitation clauses and found that they can potentially be harmful to consumers by reducing competition between suppliers listed and reducing innovation by DCT in marketing and advertising.

4.139 Whether and how harmful these clauses are depends on the market context. The harm is more likely when (i) a greater proportion of suppliers and consumers are covered by such clauses; (ii) they prevent resolicitation for a longer time and during key periods (eg at the time of contract renewal); and (iii) resolicitation has a significant impact on consumers' choices.

4.140 This harm can be reduced by two efficiency justifications. Namely, these clauses can contribute to lower introductory prices and they may be necessary to prevent resolicitation shortly after the acquisition which could undermine suppliers' incentives to invest in their products and services and to list them on DCTs.

4.141 However, these clauses can also lead to higher renewal prices which counterbalances any impact on introductory prices. In addition, the prevention of resolicitation to ensure that suppliers recoup the cost of entering into a contract with the consumer does not appear to be necessary for long periods.²¹³

²¹¹ We note that the supplier is not one of the Six Large Energy Firms. Hence, its customers' behaviour might differ from the behaviour of the majority of energy consumers.

²¹² Not to default on a variable tariff, a consumer has to actively transition to another fixed tariff or switch supplier.

²¹³ And, where relevant, during and beyond the first renewal period of the contract. This is without prejudice to the application of the European Commission's notice on ancillary restraints (the ancillary restraints notice) or the Vertical Agreements Block Exemption Regulation (VABER) to these agreements. In particular, the exemptions provided by either the ancillary restraints notice or VABER may apply to certain non resolicitation provisions described in this paper. See Commission Notice on restrictions directly related and necessary to concentrations (2005/C 56/03) and Commission Regulation (EU) No 330/2010 of 20 April 2010 on the application of Article

- 4.142 We have assessed the current prevalence and impact of these clauses in home insurance and energy. In home insurance, these clauses cover a large share of suppliers and consumers and generally prevent resolicitation for around a year, including the first renewal period of the policies. In energy, these clauses also cover a large share of suppliers and consumers and generally prevent resolicitation for at least 12 months.
- 4.143 It is likely that for some consumers resolicitation could be a helpful prompt to shop around when their contract comes to an end. This is particularly the case in markets with a high level of consumer inertia. Therefore, non-resolicitation clauses that cover the renewal period can have a negative impact on these consumers and this does not appear to be counterbalanced by any strong efficiencies. However, the evidence collected does not suggest that these clauses currently have a material impact on consumer choices in the sectors we have looked at.

101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices (OJ L 102/1).

Appendix 1: Data on consumer single-homing and multi-homing

Introduction

1. Consumers using multiple DCTs ('multi-homing') can be an important driver of competition between DCTs and it also affects the balance in negotiating power between DCTs and suppliers. This appendix summarises our findings on consumer multi-homing and single-homing (ie when a consumer uses only one DCT).
2. We gathered evidence on multi-homing from three sources: (i) our consumer research;²¹⁴ (ii) our internal analysis of DCT data in home and motor insurance; and (iii) responses received from suppliers in relation to home and motor insurance.
3. These sources measure different forms of multi-homing. Whereas responses from the consumer survey capture multi-homing based on whether consumers visited a DCT (irrespective of the consumer just checking the first page or going through the whole search process), supplier data and DCT data is measuring multi-homing based on whether consumers generated a quote. Moreover, DCT data provide two different multi-homing estimates using: (i) overall quotes generated and (ii) quotes generated when a consumer completed a purchase.

Results

4. The percentage of DCT users multi-homing from the consumer survey is much higher than the percentage of those multi-homing from the other two sources. The consumer survey shows that around two-thirds of DCT users are multi-homers with 60% multi-homing in car insurance and 65% multi-homing in home insurance.²¹⁵
5. By contrast, suppliers' data and our analysis of DCT data on home and motor insurance indicate that the percentage of DCT users multi-homing is much lower, especially in home insurance.

²¹⁴ Kantar, *Digital Comparison Tools: Consumer Research Final Report*, March 2017.

²¹⁵ Based on the survey, most consumers use more than one comparison site and this general conclusion is consistent across all sectors, although multihoming is more prevalent among consumers looking for hotels. The survey also showed that consumers were looking at 2.6 sites on average. When breaking down the data by sector, we find that in motor insurance and home insurance 2.2 and 2.6 sites were used, as opposed to 2.9 in hotels and flights. See page 109 of Kantar, *Digital Comparison Tools: Consumer Research Final Report*, March 2017.

6. In our analysis, we used data on home and motor insurance quotes generated on the four biggest DCTs in February, May and July 2016. To identify and match users generating quotes on different DCTs, we used data provided by users to generate a quote as unique identifiers:
 - (a) In home insurance, we used the postcode and date of birth of the customer that generated that quote.
 - (b) In motor insurance, we used the car registration number of the customer that generated that quote.
7. Where matches were found on two or more DCTs, the user was considered to be multi-homing. Tables 1 and 2 summarise the overall results averaging across the three months and distinguishing between multi-homing rates for all consumers requesting a quote and for those consumers who purchased a product.

Table 1: Percentage of consumers who multi-home based on requesting quotes from DCTs

Sector	% of single-homers	% of multi-homers	Average number of DCTs used
Home insurance	89%	11%	1.13
Motor insurance	71%	29%	1.42

Source: CMA analysis of data from Comparethemarket, GoCompare, MoneySupermarket and Confused.

Table 2: Percentage of consumers who multi-home based on requesting quotes from DCTs among those who purchased a product

Sector	% of single-homers	% of multi-homers	Average number of DCTs used
Home insurance	85%	15%	1.19
Motor insurance	58%	42%	1.63

Source: CMA analysis of data from Comparethemarket, GoCompare, MoneySupermarket and Confused.

8. Our analysis of DCT data, indicates that in home and motor insurance the proportion of users multi-homing (in terms of generating quotes on multiple sites) is estimated between 10% and 30% respectively. Estimates for multi-homing are slightly higher for those users that went on to purchase a policy through the DCT: 15% for home insurance and 42% for motor insurance.²¹⁶ Supplier data and results for motor insurance from one of the large DCTs are also consistent with this evidence.

²¹⁶ This is expected because purchasers are more inclined to shop around (multi-home) relative to consumers who use DCTs to benchmark their renewal price.

9. We also asked a number of suppliers to provide data on the percentages of consumers to whom they provided a home or motor insurance quote through (a) only one DCT and no other channel; (b) more than one DCT and no other channel; (c) only one DCT and their direct channel; (d) more than one DCT and their direct channel.²¹⁷ Table 3 presents this information averaging across the three months when data were separately provided for each month and including overall results when data were not separately provided for each month.²¹⁸ While the exact percentages vary by supplier, overall the results are consistent with our analysis of DCT data: the proportion of consumers who request quotes from multiple DCTs is between 5 and 13% in home insurance and slightly below 30% in motor insurance.

Table 3: Suppliers' data²¹⁹

Sector	Supplier	% customers supplier provided a quote to through:			
		only one DCT and no other channel	more than one DCT and no other channel	only one DCT and supplier's direct channel	more than one DCT and suppliers' direct channel
HI	[X]	[X]	[X]	[X]	[X]
HI	[X]	[X]	[X]	[X]	[X]
HI	[X]	[X]	[X]	[X]	[X]
MI	[X]	[X]	[X]	[X]	[X]

Source: Suppliers.

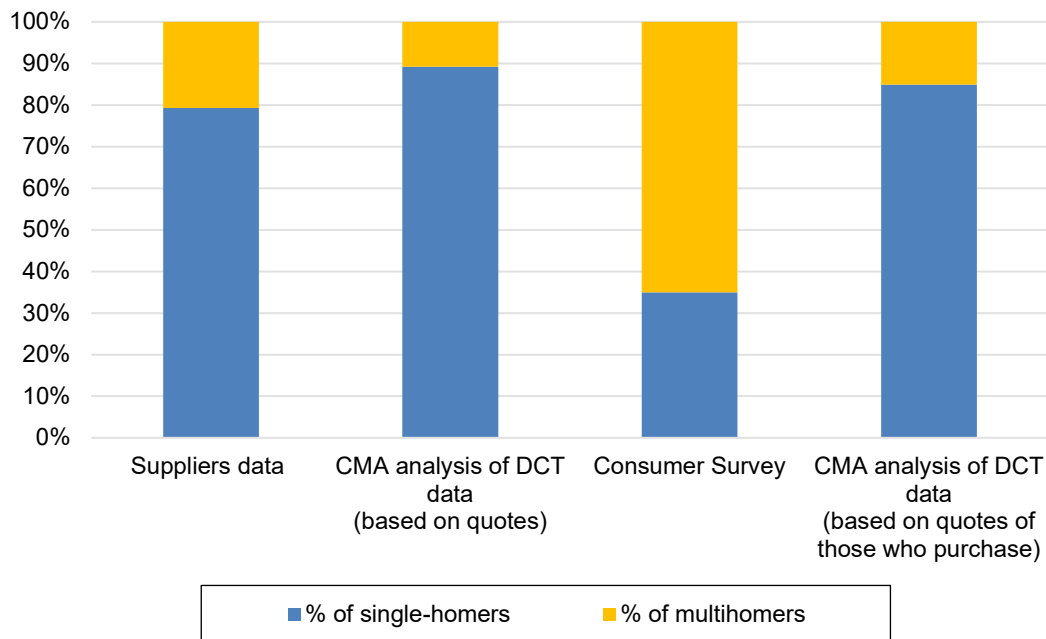
10. Figures 1 and 2 summarise the results from the sources presented above.

²¹⁷ Suppliers were asked to provide these data for each of February, May and July 2016 in line with the data we requested from DCTs.

²¹⁸ Although DCTs and suppliers' data are similar in terms of metrics used, the evidence from suppliers is less broad compared to our own DCT data analysis. This is because suppliers' responses come from a limited number of suppliers whereas the internal analysis incorporates all suppliers listed on the Big 4 DCTs. However, when available, the evidence from suppliers is more complete since it distinguishes between those consumers who have used one DCT and no other channel and those consumers who have used one DCT in addition to supplier's direct channel. On the contrary, our DCT data analysis counts as single-homers those that use only one DCT irrespective of whether these customers have used the supplier's channel as well.

²¹⁹ [X] provided results in graphs rather than exact percentages. [X] has analysed home insurance quotes occurring during the month by looking for subsequent quotes from the same household occurring in the following four weeks.

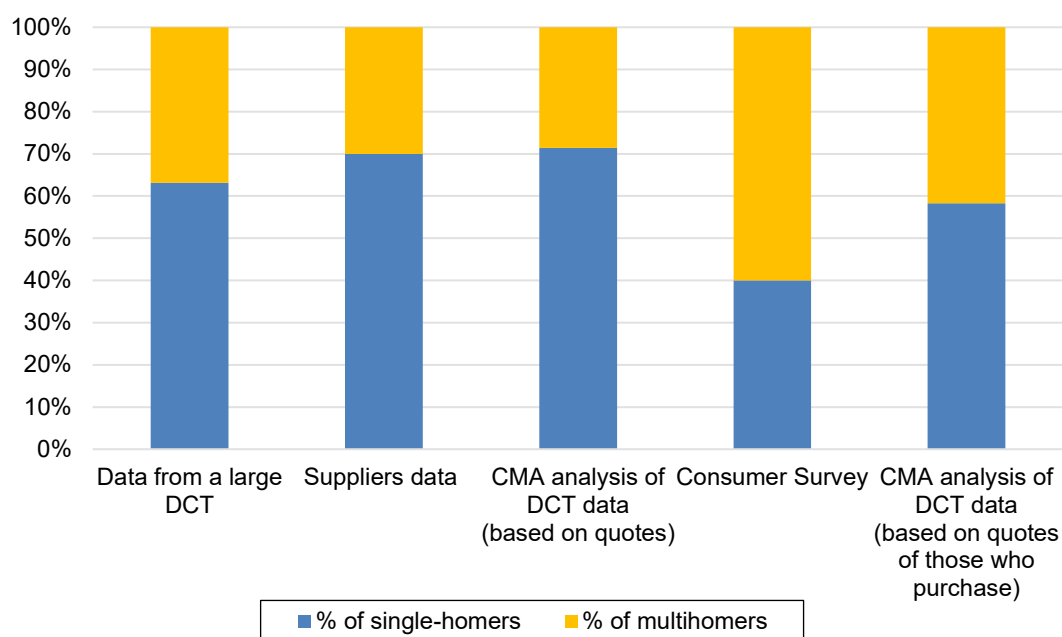
Figure 1: Single-homing and multi-homing in home insurance



Source: CMA analysis.

Splits of multi and single-homing based on: (i) responses received from suppliers (ii) CMA analysis of DCT data in home insurance; and (iii) our consumer survey.

Figure 2: Single-homing and multi-homing in motor insurance



Source: CMA analysis.

Splits of multi and single-homing based on: (i) consumer survey data from a large DCT; (ii) responses received from suppliers (iii) CMA analysis of DCT data in motor insurance and (iv) our consumer survey.

Survey results vs data analysis

11. The most likely driver of the divergence between the survey and the rest of the results is the difference in metrics. The survey focuses on whether consumers visited multiple DCTs (even if the consumer does not go as far as generating a quote) while our analysis and suppliers' data focus on whether consumers generated a quote on multiple sites.
12. Potential difference in the reference periods is another plausible explanation for at least some of the difference in results. The survey asked respondents how many DCTs they had used when searching for a specific product, without specifying the period over which the multi-homing activity may have happened. Our qualitative research showed that some consumers multi-home over multiple sittings,²²⁰ which suggests that for some consumers multi-homing activity may be spread over a number of weeks. By contrast both our data and the suppliers' data identified multi-homers within each month. All else equal, when the period covered increases, the percentage of those multi-homing should increase because some consumers multi-home over a longer period of time (eg checking a site and then wait a few days/weeks before checking site(s) again).
13. Because of the limited period covered (one month each time), our DCT data analysis could underestimate multi-homers: any customer who had generated a quote on a given DCT at the beginning (or end) of the month and generated a quote on another DCT at the beginning of the preceding (or following) month would have been counted a single-homer. However, sensitivity checks show that the percentage of single-homers is only slightly lower when the middle weeks are used instead of the whole month. This suggests that most single-homers identified for each month are not concentrated either in the beginning or end of the month so our results are likely underestimate the proportion of multi-homers only slightly, if at all.
14. The other reason what our data analysis could overestimate single-homing rates (and hence underestimate multi-homing) is because we included only the Big 4 DCTs. Therefore, we do not capture those events when a consumer checked a smaller DCT. However, as the Big 4 DCTs account for the majority of DCT sales both in motor and home insurance, this bias is likely to be small.
15. In contrast, our survey results could underestimate the number of single-homers due to methodological limitations such as poor recall or misunderstanding the question. However, one would expect the survey

²²⁰ Page 118 in Kantar, *Digital Comparison Tools: Consumer Research Final Report*, March 2017.

respondents to remember whether they visited one or more than one website when searching for a product in the last three months so poor recall should not be an important limitation. The survey could overestimate the number of multi-homers if some respondents answered how many websites they have *ever* used to search for the product due to misunderstanding the question, though we would expect this issue to affect a small proportion of respondents.

16. In sum, because of the different methodologies employed in each of these sources, the survey results (based on visits) are likely to present an upper bound for multi-homers whereas our data analysis, which is consistent with suppliers' data (and is based on quotes generated), a lower bound for multi-homers. The results indicate that multi-homing is high when it comes to checking (visiting) DCTs but much lower when it comes to generating quotes. The implications of this are discussed in Chapter 2 of this paper and Chapter 4 of our main report.

Appendix 2: DCT commissions and wide MFNs (econometric analysis)

Introduction

1. This appendix presents the methodology and results from an econometric analysis of the impact of wide MFN clauses on the commissions charged by digital comparison tools (DCTs) to insurance companies.²²¹ The analysis uses data on commissions and MFN clauses in the motor insurance market, collected from four large DCTs over the period 2010 to 2016.²²²
2. We estimate a ‘fixed effects’ model, which tests the extent to which the commission charged by a particular DCT to a particular insurance brand changes with the addition or removal of a wide MFN. The results indicate that commissions were 3 to 4% higher on average when a wide MFN clause was in place than they would have been in the absence of the wide MFN. This finding is robust to various modifications to the methodology and data.
3. Our results also show that an increase in the size of the insurance company reduced commissions, whilst an increase in the size of the DCT increased commissions (both measured in terms of motor insurance sales volumes per year).²²³ This is consistent with our assessment of negotiating positions and their impact on commissions (see Chapter 2). We find, as we would expect, that the latter effect is much larger: a 1% increase in the size of the insurance company reduced commissions by 0.02% on average, whilst a 1% increase in the size of the DCT increased commissions by 0.1% on average.

Methodology

4. We estimate the following baseline model:

$$\ln(C_{ijt}) = \beta W_MFN_{ijt} + \delta_{ij} + \delta_t + \varepsilon_{ijt} \quad (1)$$

where C_{ijt} is the commission charged by DCT i to brand j in year t , W_MFN_{ijt} is a binary indicator equal to one if DCT i had a wide MFN with brand j in year

²²¹ As set out in Chapter 3, wide MFNs soften competition between DCTs and between DCTs and competing channels through reducing DCTs’ incentives to compete on commissions.

²²² The DCTs are Comparethemarket, Confused, GoCompare and MoneySupermarket.

²²³ The DCTs we analysed charge a flat fee per sale as opposed to a percentage commission. The size of insurance premia therefore does not affect the commission rate.

t , δ_{ij} is a fixed effect for the DCT-brand pair, δ_t is a year fixed effect, and ε_{ijt} is the error term.

5. The coefficient of interest is β . This tells us how much higher or lower (on average) commissions were between a given DCT and insurance brand when there was a wide MFN in place, compared to what they would have been had there been either a narrow MFN or no MFN in place.²²⁴ Multiplying this coefficient by 100 gives an approximate percentage figure. Hence if $\beta = 0.05$ (say), then commissions were on average 5% higher when there was a wide MFN between the DCT and the insurance brand.²²⁵
6. The fixed effect δ_{ij} controls for the average commission charged by DCT i to insurance brand j during the period. This enables us to control for many factors that might affect the level of commissions, and which could bias our results. It may be the case for example that very small brands are more likely to have a wide MFN with a DCT, and also more likely to have higher commissions. This could generate a 'spurious' correlation between wide MFNs and commissions; it might appear that brands with wide MFNs pay higher commissions, but in reality it is the size of the brand that is important.
7. The inclusion of the fixed effect accounts for this problem. In effect, by including the fixed effect the estimates of the model are based on changes over time within the same DCT-brand relationship.
8. Even with the fixed effect, it may still be the case that *changes* in the size of the DCT or insurance brand over time affect the level of commission. Although this is less likely to bias our results, we have included these variables in the model as a sensitivity test of the main results.²²⁶
9. In addition to the DCT-brand fixed effect (δ_{ij}), equation (1) also includes a year fixed effect δ_t . This variable controls for the average level of commissions in each year t , across all DCTs and insurance brands. If

²²⁴ The model controls for the fact that average commission rates may be changing over time, through the inclusion of year fixed effects (δ_t). If commissions are generally increasing over time for example, then the absolute value of the commission charged by a DCT to an insurer could in principle be higher in later periods after the wide MFN is removed. The model may still find that the removal of the wide MFN lowered commissions however, because it strips out the average commission rate each year. In other words, it is possible for the absolute value to be increasing whilst the relative value is decreasing. It is the latter (relative) effect that the model is capturing.

²²⁵ The exact percentage figure can be calculated as $100 * [\exp(\beta) - 1]$. When β is relatively small however, the approximation is almost perfect. When $\beta = 0.05$ for example, the formula above also implies a 5% impact.

²²⁶ Bias is less likely in this case because the 'problematic' correlation would be between *changes* in wide MFNs and *changes* in the size of the DCT or insurance brand (rather than the absolute values). In practice, MFN clauses were generally altered for reasons unrelated to the size of the DCT or insurer.

commissions are generally increasing over time for example, or there is (say) a spike in a particular year, this will be controlled for with this variable.

Data

10. We collected data from the four DCTs covering the period 2010 to 2016. For each DCT, we collected data on the revenues (in £) and volumes (number of transactions), for each insurance brand and for each year. From this, we calculated the commission (in £) as revenues divided by volume.
11. We requested information from each DCT on the MFN clauses that they had with each insurance brand during the period, and the dates that these clauses were enforced. As outlined in Table 1, three of the DCTs used a combination of wide, narrow and no MFNs during the period, while MoneySupermarket relied exclusively on narrow MFNs. Confused removed all of its wide MFNs in late-2012, and Comparethemarket and GoCompare both removed their wide MFNs during 2015. There were therefore no wide MFNs in place during 2016.
 - (a) In our analysis we have classified an MFN as being in place during a given year if it was enforced for any period of time during that year. This is potentially problematic for 2015, as Comparethemarket and GoCompare both removed their wide MFNs during 2015. We show in paragraph 25 and table 5, however, that our results are robust to the exclusion of 2015.
 - (b) Although we have collected data on the use of narrow MFNs, we are not able to extend our methodology to examine the impact of these clauses. This is due to a lack of variation over time in the use of narrow MFNs. In particular, we have a large number of brands that moved from being subject to a wide MFN to having a narrow or no MFN. This enables us to test the impact of wide MFNs relative to these two groups. We have very few observations however in which a brand was moved from having a narrow MFN to having no MFN (note that having a wide MFN implies having a narrow MFN).²²⁷

²²⁷ Of the 554 brands in Table 2, 258 switched between having a wide MFN and a narrow or no MFN during the period. Just 18 switched between having a narrow MFN and no MFN.

Table 1: The use of MFNs in private motor insurance during 2010-2016

DCT	Use of MFNs
Comparethemarket	Used a combination of narrow, wide and no MFNs. All wide MFNs were removed in mid-2015.
Confused	Used a combination of narrow, wide and no MFNs. All wide MFNs were removed in late-2012.
GoCompare	Used a combination of narrow, wide and no MFNs. All wide MFNs were removed in the first half of-2015.
MoneySupermarket	Used narrow MFNs only.

Source: CMA analysis of data from DCTs.

12. Combining the commissions and MFN datasets was complicated by the fact that a DCT would often use slightly different names for the same insurance brand in the two datasets. To ensure that our matching process was accurate, we therefore sent the MFN dataset back to each DCT, together with our attempts to match each brand to those in the commissions dataset. We added to this a list of brands in the commissions dataset for which we had not received information on MFNs.²²⁸ Each DCT confirmed our matches, making corrections as necessary, and supplied MFN information for the additional brands.
13. Table 2 provides details on the final dataset. In total there are 2,693 observations over the period 2010-2016, where each observation is a DCT-brand-year combination.²²⁹ As outlined in paragraph 7, our econometric methodology analyses changes in the level of commissions over time within a particular DCT-brand pair, and we have 554 of these DCT-brand pairs in total (simply labelled 'brands' from herein). The average volume of sales across all observations is [X] and the average commission is [X].
14. In the table we have divided the brands into 3 mutually exclusive categories: 'wide MFN' brands are those that had a wide MFN at some point during the period; 'narrow MFN' brands are those that had a narrow MFN at some point during the period (but never a wide MFN); and 'no MFN' brands are those that had no MFN during the period. The vast majority of brands had either a wide or narrow MFN at some stage during the period, and average commissions

²²⁸ To reduce the data burden on parties, we omitted unmatched brands that were very small or were only listed on the DCT sporadically. In particular, we only included unmatched brands that (i) were present in 2016 and had been present for at least 2 years, or (ii) were present in 2015 and had been present since 2010, and (iii) had a volume of sales on the DCT of at least 1000 in one of the years in which they were present.

²²⁹ Throughout the analysis, as in Table 2, we have omitted extremely small observations, in which the volume of sales is less than 50. This is primarily to remove 'noise' from the dataset; some of the implied commission levels for these very small observations are extremely high for example. We show in our robustness checks described in paragraph 25 that the exclusion of these very small observations does not affect our regression results.

are slightly higher for these groups. On average, commissions are no higher under wide MFNs than narrow MFNs, although this finding is driven by the inclusion of MoneySupermarket, which relied exclusively on narrow MFNs.²³⁰ Excluding MoneySupermarket, average commissions were £3 higher for brands that had a wide MFN than for those with a narrow MFN; in 2015, the last year in which wide MFNs were used, average commissions were £5 higher for brands with wide MFNs.²³¹

15. It is also notable in Table 2 that average sales volumes are highest for those brands that never had an MFN. In the final column for example, we have reported the sales volumes of the wider insurance 'group', aggregated across all DCTs. This may provide a more accurate picture of the bargaining power of the insurer, if for example a niche brand belongs to a very large insurance group. Analysing this column, it is clear that wide MFNs tended to be in place for brands belonging to much smaller insurance groups than either narrow MFNs or no MFNs.
16. More detailed summary statistics for each DCT are provided in tables 6 to 9 at the end of this appendix.

Table 2: Summary statistics

	Obs.	Brands	Commissions (£, mean)	Revenues (£, mean)	Volume (mean)	Group volume (mean)
All	2,693	554	[£]	[£]	[£]	[£]
Wide MFN	1,513	279	[£]	[£]	[£]	[£]
Narrow MFN	1,042	250	[£]	[£]	[£]	[£]
No MFN	138	25	[£]	[£]	[£]	[£]

Source: CMA analysis of data from DCTs.

Notes: The table covers 2010-2016. Note that 'brands' are DCT-brand combinations, and so the total number of unique insurance brands will be lower than the numbers provided here.

Results

17. Table 3 presents the baseline regression results from equation (1). The simplest specification, in column (1), includes only the wide MFN indicator. The coefficient implies that, on average, commissions were 4% higher when there was a wide MFN in place between a DCT and brand than they otherwise would have been.
18. In column (2) we add the total sales volume of the insurance group to which the brand belongs, and the total volume of sales on the DCT each year. We

²³⁰ Note that Table 2 is based on simple averages across all observations. This finding is therefore not inconsistent with the regression results, which are based on changes over time within each brand.

²³¹ The baseline regression results are robust to the exclusion of MoneySupermarket.

would expect each side's bargaining power to increase with their relative size, and indeed this is what we find – commissions fall as the insurance group grows, and commissions increase as the DCT grows. The latter effect is much larger: a 1% increase in the size of the insurance company reduced commissions by 0.02% on average, whilst a 1% increase in the size of the DCT increased commissions by 0.1% on average.

19. Column (3) includes the total marketing spend of each DCT each year. We find that, once the overall size of the DCT is controlled for, marketing spend is not a significant driver of commissions.²³²
20. In each column, we estimate that commissions were between 3 and 4% higher when a wide MFN was in place than they otherwise would have been. In paragraph 25 and table 5, we show that this result is robust to several additional robustness tests.

Table 3: Regression results

	(1)	(2)	(3)
Wide MFN	0.04*** (0.01)	0.03*** (0.01)	0.03*** (0.01)
ln (insurance group volume)		-0.02*** (0.01)	-0.02*** (0.01)
ln (DCT volume)		0.10*** (0.03)	0.11*** (0.04)
ln (marketing spend)			-0.01 (0.03)
Obs.	2,693	2,693	2,693
DCT-brands	554	554	554
R-squared	0.13	0.15	0.15

*** p<0.01, ** p<0.05, * p<0.1. Robust standard errors (clustered by DCT-brand) in parentheses. The dependent variable in each column is ln (commissions).

Source: CMA analysis for data from DCTs.

Testing for 'pre-removal' effects

21. In this section we scrutinise the impact of wide MFNs on commissions identified above, by testing whether commissions were already changing prior to the removal of wide MFN clauses. If we find that this is the case, then the apparent impact of wide MFNs on commissions might be 'spurious'; the wide

²³² Without controlling for the size of the DCT, the marketing variable is positive and significant; these results are omitted for brevity.

MFN variable might simply be capturing a trend that would have happened anyway.

22. We therefore test for this in Table 4. To do so, we replace the wide MFN variable with a 'wide MFN removal' variable, which is equal to 0 when the wide MFN was in place, and equal to 1 otherwise. The reason for doing so is that over the period studied, wide MFNs were generally *removed* rather than *introduced*, and we want to test for changes in commissions prior to the removal date.²³³ To do so, we include variables for the two years immediately prior to the removal of the wide MFN.²³⁴ If these variables are significantly negative then this casts doubt on the results in Table 3, as it suggests that commissions were already declining prior to the removal of the wide MFN.
23. As shown in Table 4 however, this is not the case. In column (2), the indicator for the year immediately prior to the wide MFN removal is zero and statistically insignificant. In column (3), the indicator for the year two periods prior to the wide MFN removal is *positive* and significant; this is consistent with our baseline results, as it highlights that commissions were higher when the wide MFN was in place.
24. The results in Table 4 therefore support our baseline results in Table 3. Importantly, we do not find that commissions fell in the years immediately prior to the wide MFN removal. This increases our confidence that our regression results are capturing a genuine impact of wide MFN clauses, and not some other unobserved factor.

²³³ There are some brands in the dataset that had an MFN introduced and subsequently removed. They are excluded here for simplicity.

²³⁴ Technically, we move the initial removal year forward one or two periods.

Table 4: Regression results – including ‘pre-removal’ dummies

	(1)	(2)	(3)
Wide MFN removal	-0.04***	-0.03***	-0.02***
	(0.01)	(0.01)	(0.01)
Removal (t+1)		0.00	
		(0.01)	
Removal (t+2)			0.04**
			(0.02)
Obs.	2,492	2,492	2,492
DCT-brands	522	522	522
R-squared	0.12	0.12	0.12

*** p<0.01, ** p<0.05, * p<0.1. Robust standard errors (clustered by DCT-brand) in parentheses. The dependent variable in each column is ln (commissions).

Source: CMA analysis for data from DCTs.

Robustness checks

25. Table 5 provides the following robustness checks of the results in Table 3: column (1) includes very small brands listed on each DCT (those with a volume of sales of fewer than 50 in a given year), column (2) drops those brands that have a vertical relationship with the relevant DCT, column (3) drops 2015, column (4) drops observations prior to 2012 for Comparethemarket and MoneySupermarket,²³⁵ column (5) drops outliers, which are observations where the commission fee is very high or very low and column (6) drops all observations in which there was no MFN in place between a DCT and brand (ie column (6) restricts the sample to observations with either a wide or narrow MFN).²³⁶

²³⁵ For Comparethemarket and MoneySupermarket, our pre-2012 commissions data is taken from the Private Motor Insurance Market Investigation.

²³⁶ Outliers are defined here as the mean plus or minus 2 standard deviations.

Table 5: Robustness checks

	(1)	(2)	(3)	(4)	(5)	(6)
Wide MFN	0.03*** (0.01)	0.04*** (0.01)	0.03*** (0.01)	0.03*** (0.01)	0.02*** (0.00)	0.03*** (0.01)
ln (insurance group volume)	-0.02*** (0.01)	-0.03*** (0.01)	-0.02*** (0.01)	-0.01** (0.01)	-0.00 (0.00)	-0.03*** (0.01)
ln (DCT volume)	0.10*** (0.03)	0.12*** (0.03)	0.10*** (0.03)	0.11*** (0.04)	0.06*** (0.01)	0.10*** (0.03)
Obs.	2,693	2,560	2,249	1,956	2,612	2,432
DCT-brands	554	528	548	542	546	529
R-squared	0.15	0.14	0.13	0.09	0.45	0.12

*** p<0.01, ** p<0.05, * p<0.1. Robust standard errors (clustered by DCT-brand) in parentheses.

Source: CMA analysis of DCTs data.

Additional detail: summary statistics

26. Tables 6 to 9 provide information on the number of brands, the percentage of deals with a wide MFN and average commissions, revenues and volumes at each DCT over 2010-2016.

Table 6: Summary statistics, [🔗]

Table 7: Summary statistics, [🔗]

Table 8: Summary statistics, [🔗]

Table 9: Summary statistics, [🔗]

Appendix 3: Acquisition strategy

Introduction

1. Suppliers compete with one another to win and retain customers. They can do this through any number of distribution channels, including DCTs.²³⁷ In this appendix we consider the factors that affect to what extent suppliers may wish to use DCTs in addition to their direct channel.²³⁸
2. As part of this we have sought to understand whether DCTs can act as a low, or lower cost distribution channel, and also whether in practice suppliers may wish to adopt different pricing strategies when selling products through different channels as part of their overall customer acquisition strategy.

Customer acquisition strategy

3. Every supplier will base their decision on which channels to use based on a number of considerations which might, for example, include:
 - the prevalence and use of DCTs in the sector;
 - the strength of their brand and planned investment; and
 - the financial implications of using different channels – specifically, the relative cost and revenues arising from a channel.
4. It is the last of these which we consider in greater depth in this appendix.²³⁹ In particular, we have looked at evidence provided by a small number of suppliers in insurance, energy and broadband in relation to two facets of the financial considerations they make when deciding which channels (that is, DCTs or their direct channel) to use:
 - (a) the cost of generating leads or sales (the cost per acquisition or CPA) under the two channels; and
 - (b) the value of customer relationships acquired under the two channels (the 'lifetime value' or LTV).
5. Given the relatively small number of suppliers we have engaged with we have not sought to generalise whether one particular channel strategy has

²³⁷ For the purpose of this appendix we focus our discussion on two channels: DCTs and the supplier's own direct channel.

²³⁸ We have not sought to understand in detail other distribution channels.

²³⁹ See paragraphs 2.39–2.48 of Chapter 2 for a discussion on the first two factors.

prevalence. We have instead used these discussions to understand the assessments that suppliers may make in deciding whether to use DCTs and how actively they promote their direct channel. We have however also reviewed aggregated insurer and DCT data, which has provided quantitative evidence on some of the issues discussed.

6. In the rest of this appendix we set out the evidence received on the two facets outlined in paragraph 4 before concluding on the possible implications for competition.

Cost of acquisition

7. The cost of generating leads or sales²⁴⁰ (the cost per acquisition or CPA) will vary by channel. All other things being equal, if suppliers are able to attract customers via lower cost channels they can lower prices while maintaining profit margins. This in turn means suppliers are more likely to win further customers. We considered whether this was the case.
8. Our discussions with suppliers gave rise to a range of views on the relative cost of acquisition between direct and DCT channels. This in part reflected the basis on which acquisition costs were being assessed (namely the marginal, or average cost per customer) and the volume of new business that a supplier wished to be generated. Depending on the measure of the cost of acquisition, suppliers could consider either the direct or DCT channel to be the more cost-effective.
9. Suppliers we spoke to told us that the overall costs of acquiring a customer (depending on strategy) included direct marketing and advertising, indirect brand development and commission payable to intermediaries. However, because a supplier's brand strength affects sales on both the direct and DCT channel, allocation of any expenditure (both current and historic) between the two is difficult, making relative assessment problematic.²⁴¹ Assessments of the marginal cost of acquisition are necessarily less complex.
10. The nature of marginal costs depends on the acquisition method. For customers who purchase following interaction with a DCT, the cost of commission acts as a relatively simple and understandable measure. However, customers acquired on the direct channel (and their associated marginal cost) can be characterised as arriving through two approaches:

²⁴⁰ Some DCTs will redirect or refer the user to the supplier's website to complete a transaction, whilst others allow the transaction (and sale) to be completed on the DCT itself.

²⁴¹ For example, on a DCT, in addition to price and other factors consumers might choose a product from a brand they recognise over a similarly priced and specified product from a less familiar brand.

- (a) First, those whose search and browsing behaviour drove them to the supplier's website either through entering a URL, choosing the supplier from within organic search results or clicking a link from an email sent by the supplier. The marginal cost of acquiring these customers may be nil or negligible.
 - (b) The second group were those who engaged with online advertising (be it paid search or other display advertising) before arriving at the supplier's site. The cost of these customers depends on the nature of a supplier's online advertising.²⁴²
- 11. In assessing the relative cost of different channels, care is needed because the directly attributable marginal cost for a user purchasing through the direct channel is likely to be less than the value of commission charged by a DCT because it would not reflect:
 - (a) Advertising costs incurred by suppliers in relation to consumers who do not go on to purchase;²⁴³
 - (b) Brand development costs that may have strongly affected consumer search behaviour.
- 12. In contrast, the commission payable to a DCT will have been negotiated by the DCT to reflect the overall cost of generating leads by the DCT.²⁴⁴ When all of a supplier's marketing and brand development costs are considered, the average cost per acquisition is likely to be significantly greater than the marginal cost. However, this will potentially vary significantly between businesses depending on marketing strategies.
- 13. Assessing a supplier's average cost of acquisition through the direct channel against the commission chargeable by a DCT would in principle allow for an assessment of the relative cost effectiveness of the two channels, although as noted, in practice allocation of costs is problematic.
- 14. Beyond any consideration of cost of acquisition suppliers need to reflect on their ability to achieve a desired volume of business as part of their overall

²⁴² Display advertising, such as banner adverts, might be charged on pay-per-click or pay-per-impression basis. Advertising through paid search is on a pay-per-click basis but is subject to an auction process which will be affected by competition for the relevant search term.

²⁴³ As display advertising and paid search is typically charged on a pay-per-click or pay-per-impression basis, the conversion ratio of advertising is an important metric in this assessment.

²⁴⁴ The absolute value of commission will also be affected by the basis on which the DCT is remunerated (namely a cost-per-click or cost-per-acquisition model).

business strategy.²⁴⁵ Other than through cross-selling products (such as by promoting additional products to existing customers) or targeting former customers, suppliers have limited ability to acquire large volumes of new customers through the direct channel²⁴⁶ without incurring additional costs.²⁴⁷

15. Overall, our discussions with suppliers indicate that DCTs can prove to be a more cost-effective distribution channel than their own direct channels, although their use and the cost differential will vary by supplier and current and historic business strategy. Furthermore, and in addition to these discussions with suppliers, aggregated insurance industry data indicates that DCTs are generally a lower cost channel when considering the marginal cost of acquiring an additional customer.²⁴⁸

Lifetime values

16. The lifetime value (LTV) of a customer reflects the revenues and costs associated with a customer for the duration the customer relationship. For ongoing services where a customer relationship can potentially span several years, such as insurance, energy or broadband understanding LTVs are particularly important.
17. Most suppliers we spoke to did calculate life time values (LTVs) to inform their decisions.²⁴⁹ Some suppliers found that LTVs did not vary significantly across customer profile or that customer profile did not vary across channels.
18. However, other suppliers found significant differences in LTVs across distribution channels. Their analysis suggested that this was driven by:
 - (a) customers' risk profiles (and therefore expected costs);
 - (b) expected revenue from cross-selling;²⁵⁰ and
 - (c) renewal rates.

²⁴⁵ Suppliers may have capacity constraints on the volume of business they can sustainably accepted, either logistically or to maintain a certain risk profile.

²⁴⁶ This could range from the use of retail brands offering financial services and advertising in store, insurers targeting existing customers for additional products and mobile telecoms providers offering fixed telephony services.

²⁴⁷ Other channels such as selling through affinity groups might provide a relatively low-cost alternative.

²⁴⁸ We have not assessed how this varies by individual insurer or the impact of general brand marketing expenditure.

²⁴⁹ The complexity and ability to conduct this assessment varied – whilst insurers generally had the challenge of assessing the risk profile of different groups of customers, insurers which did not underwrite the insurance had greater difficulty in conducting the assessment.

²⁵⁰ In general insurance each add-on is typically sold at £20-£50.

19. It is difficult to know what drives these differences. For example, it may be that more engaged consumers, who have lower LTVs (due to more frequent switching), skew the average LTV on the DCT channel. However, in the absence of DCTs (and other channels), these customers would purchase directly, reducing the average LTV of customers buying directly. Likewise, if suppliers sought to attract customers currently using DCTs it is likely LTVs would similarly be skewed.
20. Suppliers told us that LTVs of customers also varied across individual DCTs. This could be affected by a range of factors, including the mix of consumers that were using a particular DCT²⁵¹ and how the DCT's design affected sales of ancillary services. In home and motor insurance for example, aggregated data showed that sales of ancillary products such as add-ons in insurance are greater on the direct channel but that there was some variation across DCTs.
21. Some suppliers reflected these differences by either by seeking to price in the risk across channels²⁵² or by imposing acceptance criteria for customers which could vary across acquisition channels. By adopting acceptance criteria on the DCT channel, suppliers could manage the LTV of customers, albeit at the expense of reduced volumes.

Implications for competition

22. Our analysis above suggests the following:
 - (a) The marginal cost of acquiring new customers through their own channel can be very low for suppliers but there are limits to the number of customers that can be acquired without increased advertising costs. This may however be dependent on existing customer relationships or require significant investment in brand development.
 - (b) The scale of DCTs' marketing activities means that DCTs can offer a lower cost of acquisition for new customers than direct channels. In turn this means that all things being equal a supplier can offer lower prices to consumers, making their offer more attractive while maintaining their profit margin and increasing their volume of sales.
 - (c) Where there is a difference in LTV between direct and DCT channels, suppliers have told us that the LTV is typically greater on the direct

²⁵¹ This might be affected in the short or longer term by the DCTs marketing and targeting of customer groups. For example, the time or channels that adverts are shown on television might affect the demographic profile of users as a whole.

²⁵² As the supplier is constrained by MFNs they are unable to charge a lower price on their channel (or a higher price on the DCT) unless they were able to capture the difference in risk profile as part of the quote process.

channel (possibly as a result of a different customer mix as well as presentation). All things being equal, a supplier has incentive to reduce prices on its direct channel relative to the DCT channel. However, a supplier's ability to do so may be constrained by MFN clauses. This in turn may lead to suppliers choosing to launch parallel brands.

23. These three points form part of the considerations that suppliers must make and their significance will vary depending on the business's strategy and maturity – for example, a new business or one which does not wish to invest in brand costs may consider DCTs to be the most effective way of increasing volume. In contrast businesses with existing strong brands and customer relationships may choose to focus on their direct channel.
24. Our discussions with suppliers have reflected these points in the range of approaches that they have adopted in developing their business and strategy. Some suppliers for example have developed parallel brands which adopt different pricing and sale strategies to maximise the benefits of different sales channels.
25. Suppliers have also told us that differences between channels mean that they might wish to implement different pricing strategies on different channels (and specifically lower prices on their direct channels) but that contractual restrictions (namely narrow MFNs) prevent the adoption of such approaches, giving greater impetus to developing parallel DCT focused brands.