

Dear colleague,

Citizens Advice gives people the knowledge and the confidence they need to find their way forward - whoever they are, and whatever their problem. Our network of independent charities offers confidential advice online, over the phone, and in person, for free. Last year we helped 2.6 million people in person, by phone, email or webchat. Our advice website had over 25 million visits, with 34 million pages viewed.

We are also the statutory advocate for energy and post consumers and run the national consumer helpline.

We are pleased to respond to the CMA's invitation to comment on the scope of your market study into online platforms and digital advertising. We have two main comments:

- The CMA should consider whether, and to what extent, the harms in this market hurt vulnerable consumers.
- Consumers do not always have the knowledge or skills to control their data. But our evidence shows they want to have both transparency and control over it. A well-functioning market for digital advertising and online platforms should deliver this.

These comments are set out in more detail below.

The potential harms to vulnerable consumers

The scope does not appear to address how the identified harms may affect vulnerable or low income consumers. The CMA has committed to prioritise cases where vulnerable consumers may be losing out, both in how you choose and go about your work.¹ We support this prioritisation. It's right to prioritise market failures that hurt people who can't engage or raise prices for those who can't afford them. We therefore recommend the CMA considers low income and vulnerable consumers during the market study, particularly in how it gathers evidence, analyses harms and proposes remedies.

The harm to vulnerable consumers may be less obvious in digital advertising markets. These harms are clearer in your work on (for example) the funerals market or on our loyalty penalty super-complaint. But the harm is - potentially - no less important. Specifically, we think the harms you identify may lead to worse outcomes for vulnerable or low income consumers in three ways. There may well be other ways these consumers are harmed that we have not identified. It is therefore reasonable to consider vulnerable consumers as you design the study.

Firstly, as you note, platforms may have high market power in this market. Because of this, it may be that consumers are earning inadequate returns on the data and attention they are providing. In a well-functioning market, platforms might pay consumers for their data. If such a proposal or outcome were realistic, (micro) payments would

¹ [Competition and Markets Authority Annual Plan 2019/20](#), CMA, February 2019

disproportionately benefit low income consumers' budgets. Conversely, vulnerable or lower income consumers might have worse outcomes - if their data had little or no value, for example. In either case, evaluating the impact of these changes for vulnerable and low income consumers is important.

Secondly, you identify consumers might not be able to exercise adequate control over how platforms use their data. Platforms' market power could exacerbate this. A substantial literature suggests many vulnerable consumers find it more difficult to engage in markets (for example, the CMA's [own work](#) on vulnerable consumers). We would expect this to manifest on digital platforms as well. The CMA should consider whether lack of control harms vulnerable consumers more in its market study.

Thirdly, you identify platforms may use market power to set higher prices to advertisers than they would in a well functioning market. These prices are then passed through to the end consumer. Given higher prices are particularly harmful to low income consumers, you should consider whether they (disproportionately) bear these potential costs. In particular, you might consider *how* firms pass marketing costs through. If firms 'blend' these costs across product ranges, for example, they might lead to higher costs for basic consumer products. This could lead to higher costs for low income consumers, even if they do not buy the products digital advertisers are paying artificially high prices to place on platforms.

These are each possible ways in which platforms could harm vulnerable or low income consumers. Of course, these harms are indicative rather than exhaustive. We draw attention to them to highlight the value of considering vulnerable consumers in this study.

Our evidence on consumer control over data collection

As the statutory advocate for energy consumers, we have long examined whether consumers have the knowledge, skills and desire to control how energy companies collect and use their data. This has been more important as a smarter energy system emerges. We find that consumers often do not have the knowledge or skills to exert control over collection or use. But they consistently want transparency and control.

Our recent energy report, '[Current Consumer Attitudes to Smart Home Technology](#)', supports this conclusion. It finds consumers do not think much about the data they're sharing. However, when they reflect on it, they are concerned about the volume of data firms collect from them. They also expect regulation to protect them.

This is echoed in our previous, cross-market report on [Fairness and Flexibility](#) in data use. This finds consumers want more visibility and openness about data flows. Consumers also want a more responsive system that enables them to take control over how companies use their information and to be able to change their minds. They want confidence that companies who overstep the mark will be held to account.

We also find that consumers' choices are limited by terms & conditions. Given companies often operate an 'all or nothing' model, consumers have no choice but to accept these conditions if they want a service. We would expect these problems to be exacerbated on certain online platforms, given consumers have few or no alternatives.

To alleviate this, we've advocated for layered privacy notices in the energy market. These provide clear one-pagers about how firms will use consumers' data. In addition, we recommend firms make 'sliding scale opt-ins' available. These would allow you to choose how much information you share in exchange for what level of access.

Consumers being able to port data to other services is also part of the solution. The *de minimus* option should be providing consumers with their raw data, so other providers can offer a rival service. However, it is preferable to require truly interoperable platforms. This would allow consumers to move easily and avoid being trapped.

While we are optimistic that some consumers will benefit, this is unlikely to be sufficient to deliver a well-functioning market. But many consumers will not take advantage of these opportunities. This is more difficult when platforms' network effects and market power mean there are few services to move that data to. It is necessary, but unlikely to adequately redress the power dynamic between company and consumer.

Given this, we urge the CMA to avoid the pitfalls of prior studies and investigations, such as the energy market investigation. In the past, it has relied too heavily on expecting demand-side interventions to deliver well-functioning markets. It is rare these measures succeed on their own. It is therefore welcome the CMA is considering a range of potential remedies on the supply side.

We look forward to following the progress of the market study. If you have any questions about our response, please do not hesitate to contact me. This response is not confidential and may be published on your website.

Kind regards,

Morgan Wild

Consumer Policy Lead

Good quality, independent advice. For everyone, for 80 years.

We give people the knowledge and confidence they need to find their way forward - whoever they are, and whatever their problem.

Our network of charities offers confidential advice online, over the phone, and in person, for free.

With the right evidence, we show companies and the government how they can make things better for people.



citizensadvice.org.uk

July 2019

Citizens Advice is an operating name of The National Association of Citizens Advice Bureaux.

Registered charity number 279057.