

# **Comparison Tools**

*Report from the Multi-Stakeholder Dialogue*

Providing consumers with transparent and reliable information

**Report presented at the European Consumer Summit**

**18-19 March 2013**

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*Comments on this report and its recommendations are welcome:*

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# 1 Introduction

## 1.1 *General context*

The European Consumer Agenda<sup>1</sup>, issued in 2012, highlighted some of the fundamental changes that the internet has brought about in the way consumers shop and businesses advertise and sell their goods and services. As part of this "digital revolution", price and product comparison websites and online consumer reviews are now widely used tools and are becoming embedded in consumer behaviour and business models.

The Consumer Agenda also recognised that in today's fast changing world, consumers have to deal with increasingly complex information. With the constant increase in domestic and cross-border trade and the rapid development of e-commerce, consumers nowadays have access to an until recently unimaginable range of different products and services. Whilst being offered a broader choice, consumers are also faced with an information overload, which often complicates decision making. Consumers therefore look for "shortcuts" to help them compare various offers and find the best deal.

The idea is not new. Since the 1960's, consumer organisations, and in certain cases also national authorities, have been pioneers in promoting informed consumer choices in the purchase of goods and services by carrying out independent comparative quality tests and inquiries and publishing their results. The rise of the internet however has fundamentally transformed the nature, reach and capacity of such comparisons. More and more comparison tools (CTs) exist online and have become a very popular source of information for consumers. More than 80% of European consumers used price comparison websites in 2010, with five out of ten consumers using them at least once a month.<sup>2</sup> The trend can be expected to grow further. New mobile technology, given the recent boom in sales of smartphones and tablets, can serve as a platform for "on-the-go" comparisons, allowing consumers to instantly access and compare information on prices, quality and product specifications when in a store.

Various actors are currently engaging in the comparison of products and services: private entrepreneurs, business organisations, national public authorities – such as energy and telecommunications regulators – and consumer organisations. CTs are also becoming increasingly sophisticated, incorporating functions such as personalised search and user ratings and coupling comparisons with additional services, for example assisting consumers in switching from one service provider to another.

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<sup>1</sup> COM(2012) 225 final

<sup>2</sup> "Consumer market study on the functioning of e-commerce" (2011), conducted on behalf of the European Commission, DG Health and Consumers, by Civic Consulting

Comparison tools have a clear potential for empowering consumers. They can help save time and money and find deals that are best suited to each consumer's individual needs. They can also play a key role in enabling consumers to discover offers beyond their country of residence, facilitating cross-border purchases and allowing consumers to fully enjoy the benefits of the EU Single Market. At the same time, CTs can serve as a means for retailers and service providers to improve their market positioning and reach a broader consumer base, also cross-border.

Nevertheless, the rapid proliferation of CTs and the influence they can have on consumers' decisions have also given rise to concerns about their trustworthiness. If the transparency and reliability of CTs is not guaranteed, they can become a source of consumer detriment and risk undermining consumers' trust in the market as a whole. According to the UK Office of Fair Trading, there is evidence that the usage of price comparison websites is held back by a lack of understanding, trust and confidence in some sectors of society.<sup>3</sup> It is therefore necessary to identify existing shortcomings in the functioning of CTs and explore the most efficient and effective ways for addressing them.

## ***1.2 The Multi-Stakeholder Dialogue on Comparison Tools (objective and composition)***

As a first step to address the issue of transparency and reliability of CTs, the European Commission set up a stakeholder dialogue process, first announced in the January 2012 Communication on "a coherent framework for building trust in the Digital Single Market for e-commerce and online services"<sup>4</sup> and reaffirmed in the May 2012 European Consumer Agenda.

The dialogue process was launched on 29 May 2012, with the organisation of a workshop as part of the annual European Consumer Summit. Subsequently a series of three meetings was held in Brussels<sup>5</sup>, with the participation of 25-30 representatives from national and EU-level consumer organisations, Member States' national authorities and EU-wide business associations. The meetings were chaired by the European Commission's Directorate-General for Health and Consumers (DG SANCO). Other Commission services provided input in their respective areas of expertise.

Participants were invited on the basis of their expression of interest at the 2012 European Consumer Summit and at subsequent meetings of DG SANCO's standing expert groups and SANCO-related networks (European Consumer Consultative Group, Consumer Policy Network, Consumer Protection Cooperation network, network of European Consumer Centres). Expert speakers, including comparison tool operators and representatives of self-regulatory schemes, were invited to give presentations on an *ad hoc* basis. Attention was paid to ensuring a balanced representation of interests and broad geographical coverage.

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<sup>3</sup> OFT (2012). "Price Comparison Websites. Trust, Choice and Consumer Empowerment in online markets"

<sup>4</sup> COM(2011) 942 final

<sup>5</sup> One-day workshops took place on 9 October 2012, 27 November 2012 and 5 February 2013

The purpose of this Multi-Stakeholder Dialogue on Comparison Tools (MSDCT) was to provide a better understanding of the functioning of the various types of comparison tools, analyse the interaction between all the stakeholders involved, map best practices in the comparison of products and services across different sectors and identify potential areas of improvement.

The conclusions and recommendations of the MSDCT are presented in this report, which could serve as a basis for the development of codes of good conduct and/or EU-wide guidelines for guaranteeing the transparency and reliability of comparison tools. The MSDCT participants recognise that the report is a compromise between views from different stakeholders, which were sometimes divergent. The participation of associations to the MSDCT does not necessarily reflect the views of all their members.

The MSDCT report was presented at the European Consumer Summit on 18 March 2013.

### 1.3 Scope

The MSDCT participants discussed extensively the precise scope of the exercise, noting that a variety of different tools targeted at consumers entail some form of comparison functions. Alongside traditional price comparison websites consumers often consult directly multi-seller e-commerce platforms to get a comparative overview of offers and search engines are progressively featuring comparison modules directly on the search results' pages.

Even the core category of "price comparison websites" is greatly diversified: some websites focus on a specific market sector (e.g. energy) while others cover a wide range of consumer goods and services. Some websites focus primarily on helping consumers find the cheapest offer, whereas others incorporate parameters other than price, such as overall quality, and environmental performance. Furthermore, while some websites limit their purpose to providing information, others act as a shopping gateway, enabling purchases through a direct link to sellers. In certain cases consumers are given the option to provide feedback on their purchases and to rate and review products or services.<sup>6</sup>

Given the overlaps between the different types of tools described above and with new services constantly emerging, an exhaustive definition of comparison tools would not be opportune. It was agreed that for the purposes of the MSDCT and this report, **comparison tools should be understood as including all digital content and applications developed to be used by consumers primarily for the comparison of products and services.**<sup>7</sup>

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<sup>6</sup> Different business models for comparison tools are analysed under section 3.2

<sup>7</sup> Examples of common types of CTs include:

- price comparison websites – sector-specific and multi-sector
- comparative evaluations of products and services
- automated online "brokering" services, designed to seek the best offer for each user, based on their individual profile and preferences in sectors such as insurance and credit

In the course of the MSDCT participants highlighted several differences between CTs managed by private operators for commercial purposes as opposed to CTs run by national regulators and those run by consumer organisations. It also became evident that the development of CTs varies significantly between sectors as diverse as food products, travel, telecommunications and energy services. This report seeks to remain horizontal in scope and to put forward recommendations on general principles that should apply to the functioning of all CTs, irrespective of the sector or the type of operator. It also presents the MSDCT recommendations on the policy steps required for the implementation and enforcement of these general principles.

The MSDCT discussions focused on CTs accessible through digital technology, irrespective of the type of device used, e.g. computers, tablets, mobile phones etc. Participants also noted that to the extent that operators of search engines or e-commerce platforms develop functions or applications dedicated to the comparison of products and services, these functions and applications would fall within the scope of the MSDCT recommendations. The same principles should apply for all actors offering the same type of service.

Whilst focusing on online CTs, the MSDCT also acknowledged that offline comparison tools, such as product and services testing magazines, continue to represent an important information channel for consumers. In many cases the same quality testing results are used both on comparison websites and in print publications. The MSDCT recommendations should be understood as applying also to offline CTs, where appropriate.

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- product and service reviews aggregators – including user-generated ratings, reviews and testimonials



## 2 Regulatory framework at European Union level

The existing EU legal framework does not address the issue of comparison tools as described above through a specific, all-encompassing legal act. Depending on the business model of the CT, the Unfair Commercial Practices Directive and several other provisions in EU law already address to a certain extent some of the key aspects of the functioning of CTs.

The MSDCT participants stressed the importance of analysing the application of existing EU legislation on the various types of CTs as a prerequisite for future policy making in this area, so as to properly safeguard consumers' rights and ensure a level playing field for all operators across all sectors. Consumer representatives underlined that legal uncertainty still exists in relation to how the various types of CTs would be legally evaluated and consequently what consumers' rights would be *vis-à-vis* each type of CT.

### 2.1 *Horizontally applicable rules*

This section presents an overview of core EU Directives in the field of consumer protection and electronic commerce, which may be applicable to CTs depending on the business model used and on the facts and specificities of individual cases.

One of the key criteria which needs to be fulfilled for consumer protection legislation to apply, is whether a CTs can qualify as "trader" within the meaning of the Directives or as somebody who is acting "on behalf" of a trader, for example in connection to the promotion or sale of a product or a service. Such situations can arise, for instance, when a comparison tool gives the possibility for consumers to directly purchase the products compared or displayed on the CT, or when a CT is sponsored by one or more traders. It can also be the case when a comparison tool is provided to consumers as a service in return for remuneration. In such situations, traders are bound to professional diligence and to the applicable legal requirements in each case.

Even in cases where CT operators would not fall within the scope of application of the rules outlined below, for example in the case of a CT operated by a public authority in its capacity a regulator, fully independently from traders and free of charge for consumers, the principles enshrined in the relevant provisions of consumer protection legislation may serve as a useful basis for developing a future horizontal policy approach on CTs, as reflected also in the MSDCT recommendations in chapter 5 of this report.

### 2.1.1 Unfair Commercial Practices Directive<sup>8</sup>

The Unfair Commercial Practices Directive (UCPD) contains various provisions which, as described above, can apply to CTs. For instance Articles 6 and 7 prevent traders from using CTs to provide misleading statements, omitting material information *inter alia* about the price and / or the availability of products and services.

With regard to price transparency, Article 7(4)(c) of the Directive specifically requires traders to display the (final) price inclusive of all applicable taxes or, when the price cannot reasonably be calculated in advance, the manner in which the final price is calculated.

Annex I, point 18 prohibits in all circumstances the practice of '*passing on materially inaccurate information on market conditions or on the possibility of finding the product with the intention of inducing the consumer to acquire the product at conditions less favourable than normal market conditions*'.

While sponsoring a comparison tool is not *per se* prohibited, the UCPD demands clarity on whether a tool is independent, operated or – directly or indirectly – sponsored by a trader (Article 6(1) (c), (f) and Article 7). In connection to this, '*falsely claiming or creating the impression that the trader is not acting for purposes relating to his trade, business, craft or profession, or falsely representing oneself as a consumer*' is prohibited in all circumstances by Annex I, point 22 of the Directive.

### 2.1.2 Consumer Rights Directive<sup>9</sup>

The Directive on Consumer Rights of 25 October 2011 (CRD), which Member States have to transpose by 13 December 2013 and apply as of 13 June 2014, will replace the Distance Selling Directive<sup>10</sup> and the Doorstep Selling Directive<sup>11</sup> currently in force. It should be underlined that the CRD covers those types of CTs through which consumers can buy a product or a service.

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<sup>8</sup> Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market

<sup>9</sup> Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights

<sup>10</sup> Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts

<sup>11</sup> Council Directive 85/577/EEC of 20 December 1985 to protect the consumer in respect of contracts negotiated away from business premises

The CRD sets out detailed pre-contractual consumer information requirements. Regarding online sales, these are provided in Article 6. The CRD also lays down other provisions which may be relevant to CTs, for example banning the use of pre-ticked boxes on websites when offering additional services (Article 22) and of internet cost traps (Article 22).

The information requirements under the CRD include the main characteristics of the product. For digital content products, there is a specific requirement for information about the functionality, including applicable technical protection measures, and the interoperability with hardware and software.

The CRD stipulates that prices must be indicated inclusive of taxes, or where for objective reasons the price cannot reasonably be calculated in advance, the manner in which the price is to be calculated. All additional freight, delivery or postal charges and any other costs or, where those charges cannot reasonably be calculated in advance, the fact that such additional charges may be payable must be indicated as well. For contracts of indeterminate duration or contracts containing a subscription the total price has to include the total costs per billing period. The cost of using means of distance communication for concluding a contract must be indicated if such cost is higher than the basic rate.

The CRD also requires information on the arrangements for payment, delivery and performance and on the time by which the trader undertakes to deliver the goods or to perform the services. The duration of the contract, the conditions for terminating the contract and any minimum duration of the consumer's obligations under the contract must be indicated. Furthermore, there are detailed information requirements regarding the right of withdrawal from the contract.

Finally, under the CRD any available after-sales customer assistance, after-sales services and commercial guarantees and their conditions must also be explained to the consumer.

### **2.1.3 Misleading and Comparative Advertising Directive<sup>12</sup>**

The purpose of the EU Directive on misleading and comparative advertising is to protect traders against misleading advertising and the unfair consequences thereof and to lay down the conditions under which the comparative advertising is permitted.

Article 2(c) states that "comparative advertising" is any advertising which explicitly or by implication identifies a competitor or goods or services offered by a competitor.

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<sup>12</sup> Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising

Article 4 lays down the conditions under which comparative advertising is permitted. The conditions are the following:

- a) it must not be misleading within the meaning of the Unfair Commercial Practices Directive;
- b) it compares products meeting the same needs and objectively compares material, relevant and verifiable features, which may include price;
- c) it does not discredit competitors marks, does not take unfair advantage of their reputation, does not present products as imitations and does not create confusion among traders.

As far as the protection of businesses is concerned, Article 4 provides criteria for assessing whether a particular business-to-business advertising practice is misleading and therefore prohibited.

#### **2.1.4 Price Indication Directive<sup>13</sup>**

The Directive on consumer protection in the indication of the prices of products provides that the selling price and the price per unit of measurement (unit price) must be indicated for all products offered by traders to consumers, in order to improve consumer information and to facilitate comparison of prices. The selling price must be unambiguous, easily identifiable and clearly legible (Article 4 of the Directive).

The scope of application of the Directive is limited to products. Although the Directive does not contain a definition of ‘products’, the term can be interpreted with reference to other provisions of the consumer acquis as including all movable goods. Therefore, the Directive does not apply to services.<sup>14</sup>

Under Article 3(1), the unit price does not have to be indicated if it is identical to the selling price (e.g. when the quantity of the packaged product equals a single unit of measurement). Moreover, under Article 5 Member States can waive the obligation to indicate the unit price of products for which this indication would not be useful because of the product’s nature or purpose or would be likely to cause confusion.

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13 Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers

<sup>14</sup> The transposition measures enacted by several Member States, however, are also applicable to services: this is the case of Belgium, Germany, Luxembourg, Portugal, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia.

### 2.1.5 E-commerce Directive<sup>15</sup>

To the extent they provide information society services<sup>16</sup>, providers of CTs – be it commercial or run by national regulators or consumer organisations – are also subject to the provisions of the E-commerce Directive (ECD).

In this context the following regulatory elements are of particular importance:

According to Article 3(2) of the ECD, Member States may not, for reasons falling within the coordinated field<sup>17</sup>, restrict the freedom to provide information society services from another Member State. In relation to CTs this means that whenever they are provided as information society services according to the applicable rules, Member States should in principle not restrict the provision of the service they provide.

Article 5 ECD also requires Member States to ensure that any information society service provider renders easily, directly and permanently accessible to the recipients of the service at least the following information:

- the name of the service provider,
- the geographic address,
- the contact details of the service provider (e.g. e-mail address),
- the details of trade registration (e.g. registration number) and
- the VAT number.

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<sup>15</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce')

<sup>16</sup> Information society service is any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services (Article 1(2) of Directive 98/34/EC as amended by Directive 98/48/EC)

<sup>17</sup> as defined in Article 2(h) of Directive 2000/31/EC

## 2.2 Sector-specific rules

### 2.2.1 Electronic communications

In the electronic communications sector, the Universal Service Directive (USD)<sup>18</sup> contains specific requirements for national regulatory authorities (NRAs) and undertakings providing electronic communications services as regards transparency and publication of information which are of direct relevance for CTs. The e-Privacy Directive<sup>19</sup> also contains relevant requirements as regards the protection of privacy in the electronic communications sector.

In accordance with Article 21 of the USD, NRAs can for instance oblige operators to publish transparent, comparable, adequate and up-to-date information on applicable prices and tariffs, on any charges due on termination of a contract and on standard terms and conditions in respect of access to and use of services provided by them to end-users and consumers. Such information shall be published in a clear, comprehensive and easily accessible form.

NRAs shall also encourage the provision of comparable information to enable end-users and consumers to make an independent evaluation of the cost of alternative usage patterns, for instance by means of interactive guides or similar techniques. Where such facilities are not available on the market free of charge or at a reasonable price, Member States shall ensure that NRAs are able to make such guides or techniques available themselves or through third-party procurement. Third parties shall have a right to use, free of charge, the information published by electronic communication providers for the purposes of selling or making available such interactive guides or similar techniques.

The Digital Agenda for Europe (DAE)<sup>20</sup> also emphasizes the importance of encouraging consumers to conduct more activity online which will contribute to the virtuous cycle of the digital economy. In this regard, it is important to generate citizens' and consumers' trust in the digital environment by making citizens and consumers aware of their existing rights in the digital environment guaranteed under EU law.

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<sup>18</sup> Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive), as amended by Directive 2009/136/EC (Citizens' Rights Directive)

<sup>19</sup> Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector (e-Privacy Directive), as amended by Directive 2006/24/EC and Directive 2009/136/EC

<sup>20</sup> COM(2010) 245 final

The Code of EU Online Rights, has compiled the existing citizens and consumers rights under EU law applicable to online activities, including aspects such as net neutrality and e-privacy.<sup>21</sup>

Transparency aspects were also considered in the context of the 2012 On-line public consultation on "specific aspects of transparency, traffic management and switching in an Open Internet".<sup>22</sup>

## 2.2.2 Travel and transport

In relation to the travel and transport sector, Regulation 1008/2008<sup>23</sup> contains specific provisions applicable to CTs with regard to the display of air fares. Article 23 of the Regulation notably states that *'air fares and air rates available to the general public shall include the applicable conditions when offered or published in any form, including on the Internet. The final price to be paid shall at all times be indicated and shall include the applicable air fare or air rate as well as all applicable taxes, and charges, surcharges and fees which are unavoidable and foreseeable at the time of publication'*.

In addition, Regulation 80/2009<sup>24</sup> regulates several aspects of the functioning of Computerised Reservation Systems (CRS). CRS are worldwide computerised reservation networks used by travel agents, online reservation sites and large corporations as a single point of access for booking airline seats, hotel rooms, rental cars, and other travel related items.<sup>25</sup> Whilst consumers generally do not have a direct access to CRS (the intermediary being a travel agent or an online reservations' website), some of the provisions of Regulation 80/2009 have a direct impact on the end consumers and can serve as useful benchmark for the functioning of CTs, with regard to the neutral display of information, price transparency and the protection of personal data.

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<sup>21</sup> Code of EU Online Rights. Digital Agenda for Europe (Action 16):  
<https://ec.europa.eu/digital-agenda/en/code-eu-online-rights> and  
Your online rights: [http://europa.eu/youreurope/citizens/shopping/index\\_en.htm](http://europa.eu/youreurope/citizens/shopping/index_en.htm)

<sup>22</sup> On-line public consultation on "specific aspects of transparency, traffic management and switching in an Open Internet: <http://ec.europa.eu/digital-agenda/en/line-public-consultation-specific-aspects-transparency-traffic-management-and-switching-open>

<sup>23</sup> Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community

<sup>24</sup> Regulation (EC) No 80/2009 of the European Parliament and of the Council of 14 January 2009 on a Code of Conduct for computerised reservation systems and repealing Council Regulation (EEC) No 2299/89.

<sup>25</sup> Examples of major CRS operators: [www.amadeus.com](http://www.amadeus.com), [www.travelport.com](http://www.travelport.com), [www.sabre.com](http://www.sabre.com)

In order to protect consumers' interests, information on all participating airlines is displayed in an unbiased way to users of a CRS to avoid favouring one participating airline over another. Article 5 (§1 to §5) of the Regulation provides a number of measures to guarantee neutral display to consumers. Data provided by airlines should be displayed in a neutral and comprehensive manner and without discrimination or bias. The ranking should not be discriminatory and based on any factor directly or indirectly relating to airline identity. Finally, airlines and intermediaries handling the data shall ensure that the data which they submit to a CRS are accurate.

As regards the transparency of prices, Regulation 1008/2008 requires air fares to be published inclusive of all applicable taxes and charges, surcharges and fees which are unavoidable and foreseeable. CRS displays should provide information on fares according to the same criteria to ensure that travel agents can communicate that information to their clients.

Personal data collected in the course of the activities of a CRS for the purpose of making reservations or issuing tickets for transport products shall only be processed in a way compatible with these purposes. With regard to the processing of such data, a CRS shall be considered as a data controller in accordance with Article 2(d) of Directive 95/46/EC<sup>26</sup> (Article 11 §1).

### **2.2.3 Energy**

The Third Energy Package includes detailed provisions covering transparency issues for the provision of energy services and which are relevant for CTs in the energy sector. According to Directive 2009/72/EC<sup>27</sup> (electricity) and Directive 2009/73/EC<sup>28</sup> (natural gas), Member States shall ensure high levels of consumer protection, particularly with respect to the transparency of contractual terms and conditions, general information and dispute settlement mechanisms. The directives also contain specific provisions relating to the transparency of billing and price information.

According to the aforementioned electricity and gas Directives, customers are also entitled to receive all relevant consumption data. Suppliers have to provide their customers with information on actual electricity consumption and costs, and to do so frequently enough to enable customers to regulate their own electricity consumption.

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<sup>26</sup> Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data

<sup>27</sup> Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC

<sup>28</sup> Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC



Suppliers are also required to provide transparent information on prices and tariffs and make available a wide range of payment methods, specifying that prepayment systems should be fair and reflect consumption.<sup>29</sup>

The transparency and reliability of CTs in the energy sector has so far not been addressed through EU legislation, but the Council of European Energy Regulators (CEER), which brings together National Regulatory Authorities for energy, has developed Guidelines of Good Practice on Price Comparison Tools. Whilst not binding, the CEER guidelines constitute an important step towards (self-)regulation in this sector and are presented in greater detail under section 4.4 of this report.

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<sup>29</sup> A more extensive overview of the relevant EU regulatory framework in the energy sector is included in the Working Group Report on Transparency in EU Retail Energy Markets (November 2012): [http://ec.europa.eu/energy/gas\\_electricity/doc/forum\\_citizen\\_energy/2012111314\\_citizen\\_forum\\_meeting\\_working\\_group\\_report.pdf](http://ec.europa.eu/energy/gas_electricity/doc/forum_citizen_energy/2012111314_citizen_forum_meeting_working_group_report.pdf)

### 3 Challenges and current shortcomings in the functioning of comparison tools

Comparison tools are so far largely perceived by users to be useful and effective in helping them locate good deals. In a study by the UK Office of Fair Trading<sup>30</sup> amongst consumers who do not use price comparison websites as part of their search, only 13% said that they did not believe these websites were independent and impartial, while 8% said they found them too complicated, difficult or confusing to use. Similarly, in a consumer market study on e-commerce conducted in 2011 on behalf of the European Commission<sup>31</sup> only 10% of the consumers who said they did not use price comparison websites cited lack of trust as the reason. However the same study revealed that one in eight respondents felt that they had been misled by price comparison websites. In most of the cases, the reason was that they went on to find a cheaper price elsewhere, while in other cases the price indicated on the price comparison website did not correspond to the price on the seller's website. Such discrepancies, if not adequately addressed, risk further confusing and misleading consumers and undermining their overall trust in CTs.

#### 3.1 *Transparency and impartiality of comparisons*

The MSDCT recommendations on the issues raised in this section are presented in Chapter 5 of the report, under "*1) Transparency and Impartiality of comparisons*"

##### 3.1.1 Impartiality

The exact nature of the relationship between CT operators and the sellers of products and services featured on their CTs is often unclear to consumers.

In the course of the MSDCT, participants pointed to cases where the operator of a CT acts at the same time as the seller of some of the products or services featured in the comparisons conducted by the CT<sup>32</sup>, expressing concerns about whether their objectivity can be guaranteed. Several participants shared the view that the impartiality of comparison results can only be guaranteed if CTs are fully independent from the sellers whose offers they display.

<sup>30</sup> OFT (2012). "Price Comparison Websites. Trust, Choice and Consumer Empowerment in online markets"

<sup>31</sup> "Consumer market study on the functioning of e-commerce" (2011), conducted on behalf of the European Commission, DG Health and Consumers, by Civic Consulting – hereafter "the 2011 e-Commerce study"

<sup>32</sup> For example, a comparison website for general retail consumer goods which is operated by a large supermarket chain.

Whilst many CTs are structurally and operationally independent, even then CT operators are often bound to traders through contractual arrangements and referencing may be subject to payment of a listing fee. Such agreements are sometimes a prerequisite for sourcing and updating data and can be an important stream of revenue for CTs, some of which request a fee from sellers to feature their offers. Another layer of cooperation between CTs and sellers is through paid advertising.

Certain MSDCT participants highlighted the importance of contractual arrangements between CT operators and traders for establishing common principles of transparency and mutual accountability. Some operators of CTs argued that charging a set-up fee and signing a binding contract with sellers could be an effective way to ensure that the sellers indeed provide quality information, promptly notify any changes and send updates on a regular basis. Some added that in their experience, sellers listed for free did not behave responsibly in these respects.

Participants argued that in order to be able to assess whether information provided by CTs is unbiased, consumers need to be aware of existing agreements between CT operators and the companies whose products and services they evaluate

### **3.1.2 Financing**

Many CTs suffer from lack of transparency concerning their business model. A mystery shopping exercise in over 260 price comparison websites conducted as part of the 2011 e-Commerce study showed that just one in two (52%) price comparison websites in the retail sector provide information on their business model. Even when they did provide such information, in 60% of cases they did not indicate clearly if the retailers appearing on the specific price comparison website had paid to have their products listed. Similarly in a consumer market study on the functioning of the market for internet access and provision conducted for the European Commission in 2012<sup>33</sup>, 35 of the 81 CTs surveyed in the internet services sector provided no information about their revenue sources.

In the course of the MSDCT, participants stressed the need for CTs to be transparent about their financing streams. It is essential that CTs clearly explain the nature of any affiliate links they have with vendors whose product or services appear on their websites, because such information may be important to consumer decision making. Information on the business models should be clear, simple and meaningful in order not to confuse or overburden consumers with too much information. Consumers do not necessarily need to know all the details of a CT's business model, but they need to be sure that the business model does not negatively affect the ranking, the display, the quality and the accuracy of information.

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<sup>33</sup> "Consumer market study on the functioning of the market for internet access and provision from a consumer perspective" (2012) – conducted on behalf of the European Commission, DG Health and Consumers, by Civic Consulting – hereafter "the 2012 ISP study"

The MSDCT looked into various existing financing models for CTs, which are often combined, such as the following:

- Pay-per-click: the CT operators receive a small amount of money from the seller every time a consumer clicks on one of their offers.
- Pay-per-order: the CT operators receive a fee from the seller for each purchase concluded via their CT.
- Charges for enhanced visibility: Should the seller wish so, they have the possibility to pay slightly more which will influence the way their offers are referenced on the CT, for example by being ranked higher in the default view of the comparison results.
- Paid third-party advertising
- Subscription-based: in this case a CT is funded through the subscription fees of users. This form of financing is more common for CTs run by consumer organisations.

### 3.1.3 Data sourcing

In the course of the MSDCT several models for the sourcing of data were presented. Private CT operators either source their data by scanning the internet to locate available offers using special software ("scraping") or they obtain this data directly from sellers on the basis of contractual agreements. Another data sourcing approach requires CTs operators to research and collect information directly in brick-and-mortar stores. In certain countries for sectors such as energy, service providers are obliged to notify any change to their tariff plans to CTs managed by regulators.

Being aware of the method used for sourcing data is important for consumers to be able to assess the reliability and usefulness of a CT, with data updated through a direct link to the seller's automated system being considered more reliable in general than data collected by means of web scraping software. It was however noted that no data sourcing method is flawless. MSDCT participants also stressed that applying a uniform method of sourcing data is important for ensuring the comparability of information: data on prices collected by using automated software to scan the internet is likely to differ from the prices on the shelves in store.

In the context of the MSDCT participants also discussed possible technology solutions for improving the quality of data used by CTs. An industry example was presented of a standards-based, scalable and interoperable framework for sharing product information in consumer-facing web and mobile applications. In this example, brand-owning companies are responsible for entering and maintaining accurate product data and application developers agree to maintain data integrity and not to share data beyond their applications.<sup>34</sup>

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<sup>34</sup> The project, called "GS1 Source" is currently limited to pre-packaged food products and the data attributes covered by the EU Food Information Regulation (1169/2011). More information at [www.gs1.org/source](http://www.gs1.org/source).

Representatives of consumer organisations also suggested that data routinely collected by public authorities, such as telecommunications regulators, could be made publicly available for re-use by consumer organisations wishing to develop their own CTs.

### **3.1.4 Ranking methodology**

A significant percentage of CTs perform sub-optimally in one of their major functions, the presentation of prices.

Two out of three price comparison websites tested in the 2011 e-Commerce study did not provide any information about the default ranking of their search results. Even when the mystery shoppers tried to rank results according to the cheapest offer, in one in three cases (33%) they found it difficult or even impossible to do so. For almost one third of price comparison websites, the default view did not rank offers in order of ascending price. Even using the lowest price view, the cheapest correct offer was the first product displayed in less than half trials (47%). In 15% of trials, the cheapest correct offer was not even listed at all on the first page of results.

Similarly, the 2012 ISP study showed that only 26% of the comparison websites in the internet service sector offered users clear information on the default ranking of comparison results. A further 9% of the websites surveyed provided some information but not in a sufficiently clear way.

Consumers intuitively expect the "best deals" to be shown first in the default view of comparison results. Consumers expecting the cheapest offers to be shown first, can therefore be easily misled if another criterion is used for ranking, without this being made clear. MSDCT participants noted that, depending on the business model of the CT, often the "best deals" are not necessarily the cheapest deals but rather those that offer the best value for money. In the travel sector for example, certain websites rank results on the basis of a "recommended choice" formula, which takes into account factors such as the price/quality ratio, customer rating, the availability of hotel rooms or the amount of waiting time for connection flights. Whilst such formulas can be useful, the methodology for arriving to the "recommended results" is not always evident for consumers. Other websites may rank offers by default on the basis of other criteria, such as the products' environmental impact. It is therefore important for consumers to be aware of the criteria used for the comparison and for the ranking of the results, so as to avoid confusion.

Whilst recognising the usefulness of ranking offers on the basis of different criteria, participants of the MSDCT nevertheless agreed that, when price is provided as one of the main criteria for comparison, there should always be an option to rank results in order of ascending price and that this should be made clear and easily accessible to the consumers.

In addition, consumers often are not aware whether some of the sellers have paid in order to be featured more prominently in the comparison results, even if they do not represent the best offer. Consumers are not always clear about the distinction between "spontaneous" rankings and offers featured on the basis of paid advertising. Sometimes the distinction is not made at all, whereas in other cases spontaneous search results are displayed separately from paid advertisements on the same page, but can still be visually confusing for consumers. In conclusion, it is vital that there is no confusion over whether a particular offer represents a comparison result based upon objective criteria, or a promotion which may be based upon commercial relationship between the comparison provider and the product or service supplier.

### **3.1.5 User reviews and ratings**

The integration of user ratings and reviews is becoming a fairly standard feature of CTs, allowing consumers to assume a participative role in the evaluation and comparison of products and services. User reviews and ratings can have a direct influence on consumers' purchasing decisions, however, since early on doubts have been expressed about their value and authenticity. Some of the MSDCT participants noted that several cases have surfaced where paid advertising was "camouflaged" as spontaneous user testimonials. Cases of "flooding" of positive reviews that are organised by companies to counterbalance negative reviews submitted by consumers are not a rare phenomenon. Negative reviews are sometimes removed on the request of sellers who pay to be featured on a CT. On the other hand, respectable businesses are often targeted by biased negative reviews submitted by their competitors, and sometimes they are not given adequate means to respond to unfair criticism.

MSDCT participants noted that achieving transparency with regard to user-generated reviews and ratings is very complex, due to their – by definition – subjective nature, as opposed to objective criteria for the comparison of offers, such as price or technical characteristics. In an attempt to guarantee the authenticity of consumer reviews, some CTs have put in place verification systems, requiring for example consumers to register with a valid e-mail address prior to submitting a review or to provide a product code in order to review a purchased item. They also apply technical protection measures against botnets<sup>35</sup> generating automated reviews. Such measures do however raise questions for consumers wishing to use the service while preserving their anonymity. CT operators recognised that more measures could be applied to further limit fake reviews, but these would make the process more cumbersome and would therefore also negatively affect the number of unbiased reviews. The challenge is to find a balance between an efficient system for collecting user reviews and an effective control mechanism to avoid abuses.

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<sup>35</sup> Botnets are networks of malware-infected computers, controlled remotely and typically used for sending spam without the owners' knowledge.

## **3.2 Additional factors affecting the transparency of comparison tools**

### **3.2.1 Search neutrality**

The role that CTs play in the consumers' decision-making process should also be placed in the context of the wider problematic of unbiased access to online information. The issue of neutrality of online search engines was also highlighted by MSDCT participants as important for ensuring fair access for consumers to both comparison websites and retailers' websites.

Given the progressive convergence between search and comparison functions<sup>36</sup>, the dominance of a handful of players in the online search sector raises concerns about their objectivity and the lack of effective competition leaves consumers with little power to exercise pressure for a better quality of service.<sup>37</sup> In their quest for finding the best deal, consumers usually start their search by using search engines, and are directed to relevant comparison websites in this way. Consumers are unlikely to be aware of all the nuances of the methodology of ranking and displaying search results and are unlikely to look beyond the first page of search listings. The development of own comparison functions by certain search engines may therefore raise questions in terms of search neutrality. Consumers may be misled if the gateway to comparison websites is itself biased. As search engines develop their own comparison services, it is therefore important to ensure that they do not unfairly favour their own services at the expense of competitors.

### **3.2.2 Dynamic and personalised pricing**

The ability to single out individual consumer profiles and increase or decrease prices depending on each profile becomes feasible with the technology of the internet. MSDCT participants raised a number of issues around dynamic and personalised pricing, arguing that prices online can fluctuate depending on non-transparent factors, such as the date or the time of the day, the geographical localisation or the past purchasing history of the user. While many markets had already seen dynamic pricing in the past, the injection of searching and tracking capabilities on the internet meant that the habits and profile of consumers could be used much more widely to tailor prices on an individual level. For instance, indications exist that prices might be affected by how often users have previously searched for a specific offer on a CT; in some cases this could indicate to the seller that the interest is growing in a service which is time sensitive and limited in quantity.

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<sup>36</sup> For example a major online search engine also offering a specialised function for comparing car insurance offers.

<sup>37</sup> [http://www.consumerfocus.org.uk/files/2012/06/all\\_thats\\_digital\\_isnt\\_gold.pdf](http://www.consumerfocus.org.uk/files/2012/06/all_thats_digital_isnt_gold.pdf)

More specifically, representatives of consumer organisations expressed concerns that new technologies give companies unprecedented power in profiling consumers, resulting in social sorting and segmentation and ultimately to price discrimination, i.e. by offering the same products at different prices based on individual users' online profiles.

According to a position paper by BEUC<sup>38</sup> for example, a retail photography website charged different prices for the same digital cameras and related equipment, depending on whether shoppers had previously visited popular price comparison websites. The same practice was used by a well-known online retailer that offered an MP3 player with a \$50 discount for customers who had compared prices on a "bargain-hunter" website. Business representatives noted that such "bundling" or "consolidating" practices are not new or uncommon also in the offline world: on the basis of agreements, if a business brings a certain volume of purchases to the seller, the price for those purchases will be lower.

On the basis of such examples, consumer organisations argued that personalised pricing may in certain cases lead to higher prices, and therefore be detrimental for consumers – as businesses are likely to propose the maximum price that a consumer is willing to pay. Prices offered to an impulsive buyer could be higher than those offered to buyers whose profile shows that they usually visit different sites before purchasing.

Participants suggested that measures based on profiling can sometimes go as far as depriving some consumers from accessing certain goods or services altogether, since these are only made available to consumers of a specific "profile". As a result, some consumers may benefit from better prices, whereas others may suffer economic detriment.

However, as dynamic pricing is a highly technical and complex area of activity, and a critical mass of concrete information on personalised dynamic pricing practices is still lacking, participants suggested that further research and analysis on how dynamic and personalised pricing is evolving might be needed.

### 3.3 *Quality of information*

The MSDCT recommendations on the issues raised in this section are presented in Chapter 5 of the report, under "2) *Quality of information*"

#### 3.3.1 **Comparability**

Comparing offers becomes more difficult when the characteristics of products or services are not presented in a uniform, systematic way. Operators of CTs confirmed that providing simple, straightforward and standardised indications on the product characteristics, using the same units of measurement, is very important to their users.

<sup>38</sup> BEUC X/010/2010, see also BEUC X/063/2010



### 3.3.2 Accuracy

As already mentioned, discrepancies between the information featured on a CT and the actual price or product characteristics on offer are one of the major reasons why consumers are disappointed by CTs. The 2011 e-Commerce study showed that even when websites provided relatively comprehensive pricing information, including VAT, other taxes and delivery costs, the final price displayed was still different from the price featured on sellers' websites in 36% of cases. Similarly, in the 2012 ISP study, the price provided by the comparison websites was not identical to the price provided on the internet service providers' websites in 39% of the assessed cases.

In the course of the MSDCT, operators of CTs suggested that the risk of discrepancies and resulting consumer disappointment can be minimised when the CT offers a direct link to the seller's website, making inconsistencies more easily detectable.

### 3.3.3 Updates

Consumers expect the information they receive through CTs to be up-to-date and to reflect actual offers available on the market. This update must be conducted regularly for all offers without any discrimination between retailers referenced. The 2011 e-Commerce study revealed that in most cases (73%), price comparison websites provide no clear information on how often they update the information. The 2012 ISP study yielded similar findings, with only 10% of the websites surveyed providing unambiguous information about the frequency of updates.

In the course of the MSDCT, CT operators pointed to the challenges they face in keeping the information up-to-date – particularly when the CT and seller's databases are not interlinked to automatically reflect limited-time discounts or changes in the availability of products. Even when bound by contractual agreements<sup>39</sup>, sellers sometimes still do not provide regular updates with the changes in their pricing. Some CT operators offer reward schemes for sellers that provide good data feeds, including on inventory levels, as an incentive for them to keep stocking information always up-to-date.

For CTs conducting research of their own to collect data – either through web scraping or by monitoring prices in stores – clearly indicating the date of the research could serve as a basis for a reliable comparison.

CT operators also argued that displaying offers which are not immediately available might still be useful for consumers, as long as it is clearly indicated that the product is currently not in stock. Some sellers apply pricing models based on stock limitations and sometimes consumers are willing to wait if they know they could benefit from a significant discount by ordering a product when it is temporarily out of stock and receive it at a later stage. In such cases however consumers should be informed about the expected delivery time before placing the order.

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<sup>39</sup> For example the FEVAD Charter in France, requires sellers to send updates at least every 24 hours, s. below under 4.3.1

### 3.3.4 Pricing

Finding the best price remains the number one reason for consumers using CTs, with many of them using price comparison websites as an information source to find the best deal even if making the final purchase offline. For comparisons to be meaningful however, it is important to ensure that the price featured on the CT is indeed the final total price that the consumers will have to pay if they decide to purchase the product or service.

Consumers tend to focus on the initial price of what appears to be the cheapest offer. As a result, businesses often deliberately exclude add-on costs from the initial offer and only display additional costs at a later stage. A study by the UK Office of Fair Trading<sup>40</sup> showed that this practice of "drip pricing" (also referred to as "partitioned pricing") – where the consumers see only part of the full price upfront and price increments are dripped through the buying process – accounted for significant losses in consumer welfare. Consumers find it very difficult to choose meaningfully between different products, since many of the initial offers do not reveal the end price that they will have to pay. Once they have selected what appeared to be the cheapest offer, they are often inclined to complete the transaction even if the end price does not represent the best deal for them, since they have already invested time in completing several steps in the online purchasing process. Drip pricing practices applied by sellers also create difficulties for diligent CT operators who aim at comparing and displaying the final prices to their users.

The mystery shopping exercise conducted as part of the 2011 e-Commerce study found that in fact, price comparison websites provided the final price including VAT and other taxes in just 36% of the trials. In 51% of cases details of the delivery costs were not provided. In the course of the MSDCT, operators of CTs noted that calculating and displaying the final price inclusive of all costs was often not possible, since sellers do not always provide them with the necessary information on all applicable charges.

## 3.4 *Comprehensiveness*

The MSDCT recommendations on the issues raised in this section are presented in Chapter 5 of the report, under "4) *Comprehensiveness*"

### 3.4.1 Comparison parameters

As explained previously, a low price does not always represent a good deal. Several MSDCT participants warned of dangers arising from over-emphasising price and ignoring other important parameters in the comparison of products and services.

<sup>40</sup> <http://www.offt.gov.uk/OFTwork/markets-work/advertising-prices/>

Focusing exclusively on price, without providing information on delivery time, product availability, the main terms of subscription, special contract clauses or exceptional conditions applying to discounts could be detrimental for consumers. Sellers could be tempted to lower prices to be "scored" higher by CTs, while compromising on other factors, of which consumers would not be made clearly aware.

Out of 260 price comparison websites surveyed in the 2011 e-Commerce study, only 20% provided information on delivery time on their results page. Most price comparison websites (62%) also did not provide any information on product availability. With regard to the internet service sector, the 2012 ISP study showed that technical information, for example the type of technology used (eg. DSL, fibre) was often missing from CTs.

As for pricing information, operators of CTs repeatedly stressed that their ability to provide consumers with a complete description of the product or service and of the relevant terms of subscription depends largely on the quality of information they receive from sellers. They underlined the importance of raising awareness of traders on the benefits of having their offers accurately featured on CTs and encouraging them to provide reliable data.

The MSDCT participants also reflected on the importance of providing consumers with tools allowing them to compare products and services on the basis of parameters such as overall quality, environmental performance, health impacts and social responsibility. Empowered consumers increasingly look beyond price and pay attention to such aspects in order to make more sustainable choices. Making reference to official labelling schemes was considered very important, particularly in relation to official environmental labelling, where this exists, especially when it is mandatory (e.g. energy labelling), but also when based on voluntary schemes (e.g. eco-label).

### **3.4.2 Coverage**

The exact range of sellers and products covered by a CT is often not clearly communicated to the users. Consumers expect that CTs provide access to information that is representative of the range of offers available in a certain sector. When this is not the case, they might end up basing their purchasing decisions on a distorted view of the market. This implies that new offers should be added on a regular basis in order to follow market developments. Amongst the websites surveyed in the 2011 e-Commerce study 18% did not provide very clear information on why some retailers were listed while others not, while 66% did not provide any such information at all. In the internet service sector, the 2012 ISP study found these figures to be 15% and 64% respectively.

Operators of CTs in the general retail sector argued that achieving full coverage of the market is quasi impossible. Even in the theoretical case where all existing retailers could be identified and included in the comparison, full coverage would require them to have the capacity to provide a regular data feed on price and stocking information. This is often not the case and in many cases retailers do not even have a website structured so as to allow CTs to 'scrape' data independently. In addition, certain sellers refuse to be referenced by CTs.

Exhaustive coverage seems to be more easily achievable in regulated sectors where the number of service providers is relatively limited, however also in these sectors, operators of CTs are faced with an increasingly complex landscape. In the electronic communications sector, for instance, difficulties derive primarily from the fact that there is a wide variety of offers in the market, not to mention its fast-evolving dynamics and heterogeneity in the demand side. Increased competition between providers and specific demands by consumers lead to new offers being launched and updated very frequently. Evolution of the market and trends in consumer demand are also leading to an increase in bundled offers by the providers which can integrate different services (e.g. fixed and mobile telephony, internet, TV) at aggregated lower prices. Whilst these trends may act overall in favour of the consumers in terms of choice and price, comparing offers and fully grasping their benefits is not always an easy task due to the fact that offers may become very complex, with many particularities. As a consequence, monitoring the existing offers in the market and the updating of CTs becomes an increasingly demanding task.

Regardless of the extent of the coverage, participants stressed the importance of improving transparency as to the exact range of offers covered by each CT.

### **3.4.3 Cross-border comparisons**

The 2011 e-Commerce study has shown that the vast majority of price comparison websites in the EU (86%) are available only in one language and most of them (83%) do not provide the option to choose offers from other countries. Moreover, only 27% of retailers found on price comparison websites were registered in other countries.

Consumer representatives have repeatedly stressed the importance of improving cross-border comparisons, to allow consumers to benefit from lower prices abroad and from offers unavailable at their place of residence. Consumers living in border regions, who already regularly shop around in neighbouring countries, would particularly benefit from cross-border price comparison services. Evidence from the Commission's Consumer Scoreboard suggests that the share of consumers shopping cross-border online is increasing.<sup>41</sup> It is estimated that if consumers shop online throughout the European Union, they have 16 times more choice than if they only shop on their domestic market.<sup>42</sup> In this respect, CTs can potentially make a significant contribution to promoting competition and overcoming persistent cases of fragmentation in the EU Single Market.

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<sup>41</sup> [http://ec.europa.eu/consumers/consumer\\_research/index\\_en.htm](http://ec.europa.eu/consumers/consumer_research/index_en.htm)

<sup>42</sup> Communication on a Coherent framework for building trust in the Digital Single Market for e-commerce and online services, European Commission, [http://ec.europa.eu/internal\\_market/e-commerce/docs/communication2012/COM2011\\_942\\_en.pdf](http://ec.europa.eu/internal_market/e-commerce/docs/communication2012/COM2011_942_en.pdf)

MSDCT participants recognised the complexity of conducting cross-border comparisons. Stakeholders from the business side argued that the inclusion of cross-border offers by CTs might be premature at this stage and negatively impact companies' business strategies, given that market conditions between Member States vary significantly. Price comparisons in particular often fail to factor in national specificities which impact pricing, such as differences in labour costs and taxes. Business representatives cited as an example the considerable differences in VAT rates, even for adjoining countries.<sup>43</sup> For a CT to properly factor in differences in VAT when displaying the final price of the product, they would also have to take into account differences in distance selling VAT thresholds, on the basis of each consumer's country of residence. It was also argued that CTs often tend to focus only on price and cannot reflect differences that may exist between countries at the level of customer service and after-sales support.

Business representatives also reported that sellers often have little incentives for featuring their products on a CT addressing mainly consumers outside the Member State of their main operation: costs involved with shipping cross-border often make their offers less competitive to those of local retailers. Other obstacles, such as the lack of a copyright licence for a specific Member State, might prevent them for targeting other countries in the first place.

CT operators on the other hand, whilst expressing interest in expanding their activities to cross-border comparisons, are wary of the practical difficulties in setting up CTs available in more than one Member State. Lack of awareness of national legislation, language issues, differences in sizing and measurement units, technical differences (e.g. plugs for electronic appliances), difficulties in calculating taxes and delivery costs require a significant investment in time and resources to produce a meaningful comparison. This, combined with uncertainty about the actual level of consumer demand for cross-border offers, has so far discouraged many of the major CT operators from developing cross-border CTs.

Finally, in some sectors, as in telecommunications for example, service providers are not entitled to operate and conclude agreements directly with consumers in another Member State without being previously registered as an authorised provider by the competent national authority of that Member State. For these services, where there is not a homogeneous provision across the EU, cross-border comparisons between countries where these services are effectively provided and countries where those services are unavailable would be of little use for consumers in practice.

MSDCT participants stressed the importance of further harmonising consumer rights, establishing EU-wide payment options and simplifying cross-border shipping to facilitate the development of cross-border comparisons. Equally, effective and affordable means of redress in case of trouble are paramount for the development of consumer trust in cross-border transactions.

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<sup>43</sup> For example, the VAT rate for the same product can be 25% in Denmark and 19% in Germany.

### 3.5 *Other factors affecting consumers' relationship to comparison tools*

The MSDCT recommendations on the issues raised in this paragraph are presented in Chapter 5 of the report, under "3) *Compliance and Redress*", "5) *User-friendliness*" "6) *Awareness-raising*" and "7) *Enhanced enforcement coordination*"

#### 3.5.1 **Availability**

The MSDCT revealed the great variations in the availability of comparison tools that still exist between Member States. Consumers in certain countries already enjoy a wide selection of different types of CTs, whilst in other Member States such services are still at a nascent phase. In the telecommunications sector for example, a mystery shopping exercise conducted as part of the 2012 ISP study identified five or more relevant comparison websites in 12 out of the 29 countries surveyed<sup>44</sup>, while in seven countries no such websites were identified.<sup>45</sup>

#### 3.5.2 **Consumer awareness and understanding of comparison tools**

Despite the growing popularity of CTs amongst consumers, some MSDCT participants reported a lack of consumer awareness about the full range of functions currently at their disposal. They stressed the need to further raise awareness amongst consumers on the various types of CTs, to assist them in familiarising themselves with the different functions and to empower them to use such tools actively and confidently, according to their individual needs.

The lack of consumer knowledge around CTs was reflected in the results of the consumer survey of the 2012 ISP study: Just 46% of respondents said they have ever used a comparison website in order to compare offers from different ISPs in the last 12 months. Approximately one third of all respondents reported that either they did not know of a comparison website for internet service offers (26%) or did not even know what a comparison website is (6%). Interestingly, lack of awareness around the existence of CTs was often high in countries where a relatively large number of CTs were identified and evaluated. For example, 32% of respondents in Ireland, 24% of respondents in France and 23% of respondents in Italy reported being unaware of any CTs for internet service providers, despite the evaluation of at least five such CTs in each of these countries by mystery shoppers.

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<sup>44</sup> EU27, Norway and Iceland

<sup>45</sup> Following the conclusion of the mystery shopping exercise, one additional comparison website was identified in one of the countries where no website had been identified previously

In addition, MSDCT participants noted that consumers are often not aware of the existence of accreditation schemes for CTs and are not always in a position to understand what exactly they guarantee.

In the UK, the Office of Fair Trading jointly with other government departments, sector regulators and consumer groups, have recently sought to publicise the benefits and risks related to CTs and provide relevant advice to consumers.<sup>46</sup> Similarly, Consumer Focus has recently issued a report<sup>47</sup> which looks at the reliability and transparency of 99 online CTs across six UK markets (energy, mobile phones, broadband, rail fares, package holidays, home and car insurance).

### **3.5.3 Filtering, search and personalisation options**

Whilst CTs are seen to perform well on providing basic search options, they often fail to provide detailed search criteria (simulators) that are tailored to individuals' needs. The 2012 ISP study revealed that on 46% of the CTs surveyed, mystery shoppers found it fairly or very difficult to compare offers on the basis of technical aspects (such as bundle type or speed). Providing personalised search and filtering options is important for allowing consumers to make meaningful comparisons based on information that is actually relevant for them, particularly in sectors such as telecommunications where the high number of bundles and complex contract terms make it hard to provide a reliable comparison.

### **3.5.4 Accessibility**

MSDCT participants expressed concerns about CTs failing to incorporate functions accessible also to vulnerable consumers, such as the technologically challenged, the elderly and persons with disabilities. They also warned against excluding the offline population from effective recourse to CTs and stressed the need for offering alternatives to comparison websites, such as comparative testing articles, printed reports upon request and telephone services.

Private CT operators however noted that past attempts to issue a magazine alongside their online activities, proved not to be commercially viable.

Consumer organisations indicate that if their CTs exhibit interactively the outcome of their tests, such results are also usually published in the form of articles in their publications. In addition, hotlines of several consumer organisations provide personalised

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<sup>46</sup> <http://www.offt.gov.uk/OFTwork/consumer-protection/campaign11-12/price-comparison-websites/;jsessionid=81DE4332E0A4EF8246EE1C0A07CF7252>

<sup>47</sup> "Comparing comparison websites", Consumer Focus,  
<http://www.consumerfocus.org.uk/files/2013/01/Comparing-comparison-sites.pdf>

advice to their members. This offers other ways to provide access to results of CTs without resorting only to a web-based interface.

For electronic communications services, the importance of ensuring equivalence in access and choice to these services for disabled end-users is provided under Article 23a of the revised Universal Service Directive.<sup>48</sup>

### **3.5.5 Personal data**

The protection of personal data in the context of CTs was an issue raised by many MSDCT participants. To a certain extent, CTs need to use personal data of the users to offer their service, particularly in order to provide results tailor-made to a specific consumer's needs. The data submitted can however be used for purposes which go beyond the simple operation of the CT, often without the consumer's explicit and informed consent. Selling "market data" is a source of revenue for some of the privately run CTs. Even though most of them claim that this data is aggregated and anonymised, attention must be paid to safeguarding consumer privacy, in accordance with the established legal framework on data protection.<sup>49</sup> In particular operators of CTs which collect personal data need to explain to customers who is collecting the information, what they intend to do with it, and with whom it could be shared. The CT operators should also clearly offer customers the opportunity to opt-out of data sharing if they wish.

### **3.5.6 Accreditation**

MSDCT participants shared information about a number of accreditation schemes that have been put in place at national level to guarantee the transparency and reliability of CTs in various sectors. Participants widely recognised the added value of accreditation schemes for consumers. They also stressed the importance of such schemes for CTs themselves, as an effective marketing tool towards consumers and sellers alike.

However they also acknowledged that regular auditing and monitoring of compliance is required after the accreditation is awarded to be able to maintain high standards of service and safeguard consumer trust.

Other concerns expressed had to do with the lack of awareness and understanding of accreditation schemes amongst consumers and with the risk of websites using an accreditation scheme logo without authorisation. Examples of good practices in CT accreditation are described in detail in section 4.4 below.

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<sup>48</sup> Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive), as amended by Directive 2009/136/EC (Citizens' Rights Directive).

<sup>49</sup> See also the recent Commission Proposals on data protection reform:  
[http://ec.europa.eu/justice/newsroom/data-protection/news/120125\\_en.htm](http://ec.europa.eu/justice/newsroom/data-protection/news/120125_en.htm)



### 3.5.7 Liability and redress

CTs often fail to provide consumers with adequate complaint handling mechanisms. The 2011 e-Commerce study revealed that most comparison websites (53%) do not even provide consumers with their full business address. Problems with failure to disclose the identity of the business operating comparison websites were also identified in the UK web sweep carried out by the Office of Fair Trading in 2012, even though the electronic e-commerce regulations require online operators to disclose identity of the business on the website.<sup>50</sup> Clauses in terms of use often exempt CT operators from all liability with regard to the information they display. This often leaves consumers exposed, particularly when the information provided by the CT is different from that provided by the seller. In the UK, the Office of Fair Trading raised concerns about the practice of some price comparison website operators to exclude their liability in relation to search and comparison services, and concluded that in many circumstances such practices are likely to be incompatible with consumer protection regulations on unfair contract terms.<sup>51</sup>

In the course of the MSDCT, operators of CTs argued that they should not be held liable in cases where sellers do not fulfil their obligations, as they are not in a position to control whether the information provided by sellers is incorrect or outdated. They also reported that they tend to perform a background check prior to referencing a seller on their CT, to assess their trustworthiness.

### 3.5.8 Enforcement

Effective enforcement of relevant EU legislation in the field of CTs is crucial for maintaining consumer confidence towards them, but also for guaranteeing a level playing field for business which "play by the rules". MSDCT participants drew attention to the challenges of ensuring compliance of CTs with the existing consumer protection legislation. For example, the lack of transparency around the business model, and around the comparison and ranking methods as well as the virtually limitless number of comparison results make it difficult to effectively monitor and assess compliance. In addition, as hinted already in chapter 2 of this report, it is often not straightforward whether the CT operator or the seller could be held accountable for misleading or unfair commercial practices.

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<sup>50</sup> <http://www.offt.gov.uk/OFTwork/consumer-protection/campaign11-12/price-comparison-websites/;jsessionid=357F8FD9ED9F76F10E6A0C4CFE39940A>; full report p. 17

<sup>51</sup> <http://www.offt.gov.uk/OFTwork/consumer-protection/campaign11-12/price-comparison-websites/;jsessionid=357F8FD9ED9F76F10E6A0C4CFE39940A>; full report p. 17

## 4 Examples of comparison tools, including good practices

Over the past few years, good practices have been developed by all stakeholders to improve the reliability and transparency of comparison tools as well as the quality of the service they provide to consumers. These include for example the development by operators of specific procedures to verify the accuracy of user-generated reviews or the reliability of sellers, the provision of tailor-made services and the integration of simulation functions allowing consumers to adapt comparisons to their individual consumption patterns.

In addition, an array of guidelines, accreditation schemes and trustmarks have been developed by the three categories of stakeholders operating CTs (public authorities, consumer organisations and the private sector). They all aim at laying down a series of principles to ensure the accuracy and reliability of information provided by CTs and at helping consumers identify more easily which CTs abide by these principles.

These two aspects are examined in the present chapter, first by looking at examples of CTs developed by each of the three main types of operators, highlighting for each of them noteworthy features and good practices, and then by looking at examples of guidelines and accreditation schemes put in place throughout the EU.

### 4.1 *Comparison tools run by national authorities*

In the course of the MSDCT, several examples of CTs run by regulators were presented, particularly in sectors such as electronic communications, insurance and energy.

Generally speaking, regulators engage in the development of CTs with the aim of improving transparency of offers on the market, guiding consumers to the offers best suited to their profile and, as a consequence, fostering competition between service providers.

In the **electronic communications** sector for instance, **ANACOM**, the Portuguese regulator for **electronic communications**, launched in 2011 *Com.esolha*<sup>52</sup>. Building on a previous service launched in 2005, which covered only mobile services, *Com.esolha* compares electronic communications offers for fixed telephony, mobile services, internet, television and bundles. Whilst participation to *Com.esolha* is not mandatory, all the main electronic telecommunications providers in Portugal have adhered to this project. The service provider is responsible for updating the data via an extranet platform and is obliged to notify any changes to ANACOM. ANACOM provides the necessary technology and support and monitors the updates.

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<sup>52</sup> The COM.escolha is available on ANACOM's consumer web portal: <http://www.anacom-consumidor.com/>

In the field of **insurance**, *TuOpreventivatOre*<sup>53</sup> is an online tool developed by the **Italian Ministry of Economic Development** and the **Institute for Supervision of Private Insurance** (ISVAP). The tool enables consumers to compare, on the basis of their affordability, quotes on civil responsibility insurance for cars of all insurance providers operating in the Italian market.

Another project managed by the Italian Ministry of Economic Development is an online observatory<sup>54</sup> for monitoring prices charged for **motor fuel in gas stations** throughout the country, launched in 2011. The observatory currently covers only gas stations situated along the motorways but will soon be expanded to all gas stations in Italy. This tool not only informs consumers about the lowest prices available, but also enables them to make different choices based on their proximity to the gas station, the offer of additional services or the overall quality of service. In addition, the observatory incorporates sustainability parameters, promoting products with lower environmental impact by indicating the prices of LPG (liquefied petroleum gas) and CNG (compressed natural gas) products. The information on the observatory can be updated at any time by gas stations' managers or their delegates – and as a minimum on a weekly basis.

Also in Italy, the **Italian Regulatory Authority for Electricity and Gas (AEEG)** had also developed *Trova offerte*<sup>55</sup>, a CT that helps consumers find and compare offers for the **supply of electricity and gas**. Results provided by the CT are based on the consumer's location, their annual consumption or the type of offers they are interested in. Participation to *Trova offerte* is not mandatory for suppliers but electricity providers must meet certain reliability requirements and be part of AEEG's list of voluntary registration of electricity providers, while gas suppliers have to be authorised by the Italian Ministry of Economic Development. Information on the characteristics of each offer is entered in the website by the operators themselves and under their own responsibility.

***Key best practices:***

- **Simulations based on the consumer's individual consumption profile** which help at finding the offers best adapted to the consumer's needs.
- The **possibility to search whether an offer is available in a given geographical location** (e.g. via postcode), which is particularly relevant for electronic communications services, where the availability and quality of coverage for the same type of service may vary widely between locations.
- **Incorporating sustainability parameters** in the ranking features as this helps at promoting products with lower environmental impact.

<sup>53</sup> <http://isvap.sviluppoeconomico.gov.it/prevrca/prvportal/index.php>

<sup>54</sup> <https://carburanti.sviluppoeconomico.gov.it/OssPrezzi>

<sup>55</sup> <http://www.autorita.energia.it/it/trovaofferte.htm>

## 4.2 Comparison tools run by consumer organisations

Consumer organisations have a long experience in running CTs aimed at helping consumers make informed choices in the purchase of goods and services, by carrying out independent quality tests and inquiries and publishing their results. Participants of the MSDCT such as **Test-Achats /Test-Aankoop** in Belgium, **DECO Proteste** in Portugal, **OCU** in Spain and **ZPS** in Slovenia have provided the MSDCT with an overview of their CTs. CTs run by consumer organisations cover a wide range of products from washing machines, to cameras or notebooks to services such as insurance products, investment products, bank services, credit cards, energy and telecommunications services.

The representatives of consumer organisations highlighted a number of key characteristics of their CTs, which are aimed at guaranteeing the independence and impartiality of the comparisons and thus provide added value for consumers. They stressed the fact that their **financing comes from the membership fees** paid by the consumer organisations' members and they do not receive any payment from industry or retailers for testing or listing a product or a service on their CTs. The products or services tested are bought on the market at market price. Consumer organisations representatives also explained that any special deals for their members displayed on their CTs are negotiated in a transparent way. All the market players receive the same information in this respect and thus have equal opportunities to provide special deals.

Another common characteristic of CTs developed by consumer organisations is the **combination of quality factors and price** in the parameters of the comparison. The comparisons aim at covering all important characteristics and relevant quality factors, going beyond just price comparison. The methodologies used for each CT are based on each organisation's experience in testing products and services consolidated with that of other large European consumer organisations. The default classification may be modified by the user, who can also further refine the search with filters. Non-members who access these CTs in most cases see products sorted in order of ascending price. To facilitate comparison for some services, standard profiles of consumption are proposed that can be adapted by the user with their own personalised consumption.

Consumer organisations also described their efforts for achieving comparisons which are as **exhaustive and comprehensive** as possible. The expertise gathered by consumer organisations for the products and services covered by their CTs forms an integral part of their work on market surveillance. New references are constantly added once identified. In terms of geographical coverage, consumer organisations seek to identify and monitor the most relevant points of sale for the consumers in a given country. The online prices are updated on a daily basis. The monitoring of price in the brick and mortar shops is carried out on a regular basis. In certain cases, for instance with ZPS in Slovenia, consumers also have the possibility to access information for products available abroad.

***Key best practices:***

- **Thorough testing**, providing consumers with additional data on the performance of the products/services.
- **The provision of standard profiles of consumption**, guiding consumers to the most relevant offers.
- **The inclusion of cross-border offers**, giving consumers the possibility to benefit from deals available in other countries.

### ***4.3 Comparison tools run by the private sector***

In the course of the MSDCT, operators of privately-run CTs specialising in various sectors where invited to present their business and help other participants gain a better understanding of their functioning. Speakers included operators of CTs focusing in regulated sectors (e.g. electronic communications, energy...) as well as CTs engaging in the comparison of general consumer goods. The presentations provided useful insights as to the financing models in place, the criteria used to rank offers and the updating of information.

With regard to the **business model**, for instance, **Compare Group**, which owns several price comparison websites for goods in Belgium, France, the Netherlands and Finland, is financed according to the pay-per-click and pay-per-order principle. The CT receives a small fee every time a consumer clicks on a product displayed on the website and is redirected to the seller's website or buys the product directly via the CT platform. **Kelkoo**, which operates in 10 countries, including the UK, France, Spain, Italy, Norway, Sweden, Germany, Denmark, Netherlands, and Belgium, also uses the pay-per-click model but offers to sellers the possibility to be ranked slightly higher in the default ranking of comparison results in exchange for a small additional fee. Compare Group on the other hand does not offer this possibility to sellers for reasons of independence and transparency. At Compare Group the default ranking is based on ascending price. For Kelkoo consumers easily have the possibility to switch from the default ranking view to the ranking solely based on order of ascending price.

As regards their **data sourcing** method, Kelkoo and Compare Group explained that they were not seeking full coverage of the market. On the contrary, they have decided to only display offers from a limited number of trusted partner retailers. They argued that this enables a better control of the information feed and its quality, as retailers expected to provide frequent and accurate updates of the data that concerns them.

CompareGroup also provided an insight into their method of **verifying user-generated reviews** on the products and the sellers featured on their websites. To submit a review, users are requested to provide a valid e-mail address and every contribution is reviewed manually according to specific criteria before being put online, to avoid spam, hidden advertising or unsubstantiated reviews.

Furthermore, Compare Group has integrated a "shopping cart" in their CT. This allows consumers to purchase products through the platform and Compare Group manages the order intake for them. The money paid by the consumer is transferred by Compare Group to the seller who is also invoiced for a commission fee agreed in advance with Compare Group. In return, Compare Group offers all consumers insight in the reliability of the services of the sellers such as delivery time, accuracy, and quality of after-sales service.

Another example of a privately-run CT was presented by **dlahandlu.pl**, which provides prices of 50 basic fast moving consumer goods available in 18 retail chains in eight cities in Poland. dlahandlu.pl explained that the data is collected by researchers once a week in shops (discount shops, supermarkets, hypermarkets) and at the same time provided by the headquarters of the retail chains to the coordinator of the project. This enables the CT to cross-check the data from the chains and the prices collected on the ground by the researchers. Data collected over time also helps to have an overview of the trends in price fluctuations – month to month, year to year.

A number of CTs have also developed several specific **additional services** to improve their attractiveness and user-friendliness. For instance, **Ariase**, a privately-run French price comparison website for internet service provision gives consumers the possibility to check offers available according to the characteristics of their connection, based on their existing phone number or on their postal code. It also offers the possibility to assist consumers in switching providers by generating automatically letters requesting the termination of their contract. These letters are officially accepted in court in case of disputes. In a similar way, **Aanbieders.be/mesfournisseurs.be**, a Belgian website comparing offers for the provision of fixed and mobile telecommunications, internet, television, energy and banking services assists consumers at changing providers free of charge and notifies them when their current contract is coming to an end, informing them at the same time of the best offers available.

Finally, the presentation of **Noteo**, a recently launched CT in France, provided the MSDCT with an example of the **inclusion of health, environmental and social parameters** in the comparison of fast moving consumer goods (e.g. food and drinks, cosmetics and household chemicals). Inspired by the energy label put in place for electrical appliances, Noteo has developed a traffic light system which rates the performance of each product in various fields: environmental performance, health impact, social responsibility and price levels. A fifth indicator aggregates the four thematic ones to provide an overall rating of the product. The aim of Noteo is to assist consumers in making sustainable choices. The Noteo ratings are calculated on the basis of external, publicly available data. Noteo is also one of the CTs which have developed a smartphone application, to be used by consumers while shopping in a brick-and-mortar store by scanning the barcode of the products.

***Key best practices:***

- Features which render the **switching** process easier for consumers.
- Specific methodology put in place to **check the reliability of user-generated reviews**.
- The **inclusion of additional comparison parameters** other than price, such as health, environmental impact and social responsibility.
- The possibility to access the main features of the CT via a **mobile application**.

#### 4.4 *Guidelines of good practice and accreditation schemes*

As already mentioned, various initiatives have been taken in recent years in order to improve the functioning of CTs, either by proposing guidelines of good practice or by setting up an accreditation scheme to certify the quality of CTs. Mystery shopping exercises carried out by Consumer Focus in the UK have shown that accredited comparison tools perform better on a number of key criteria, including price transparency.<sup>56</sup> The 2012 ISP study confirmed these findings, showing that comparison websites accredited or run by regulators were more user-friendly or provided a better coverage of the market in terms of offers. More specifically, regulator-run or accredited CTs were assessed by far in a more positive manner with respect to non-regulator ones in five out of seven assessed criteria: user-friendliness, coverage of offers from ISPs, usefulness in allowing an informed choice, option to see full and averaged prices and price clarity and understandability.

Several such initiatives which have already been put in place in regulated sectors were presented to the MSDCT including the *Guidelines of Good Practice on Price Comparison Tools of the Council of European Energy Regulators (CEER)*<sup>57</sup>, the *Consumer Focus Confidence Code*<sup>58</sup> for energy price comparisons and the *Ofcom accreditation scheme*<sup>59</sup> for CTs specialising in electronic communications.

The *CEER Guidelines*, as already mentioned in section 2.2.3 are not binding on CTs, but **provide guidance to national regulatory authorities** running such tools or accreditation schemes, **as well as to private operators**, on how to ensure the quality and usefulness of the information they provide to consumers. The development of these guidelines was motivated by the low level of consumer engagement in the energy sector and the lack of access to neutral and objective information. It is an important example of a measure seeking to improve the transparency and reliability of CTs **in a uniform manner across the EU**.

The Consumer Focus *Confidence Code* is a **voluntary** accreditation scheme for online domestic energy price comparison websites in the UK, currently used by 13 major energy providers. It was originally introduced by Ofgem, the UK energy regulator, in 2000 and taken over in 2008 by Consumer Focus, the UK consumer watchdog. Accredited websites can display the **logo** of the *Confidence Code* on their main page and the Consumer Focus website also directs consumers to the accredited websites. Ofgem is due to take over responsibility of the Code in early 2013.

<sup>56</sup> <http://www.consumerfocus.org.uk/publications/comparing-comparison-sites-price-comparison-website-mystery-shopping-report>

<sup>57</sup> Guidelines of Good Practice on Price Comparison tools - Council of European Energy Regulators (CEER), [http://www.energy-regulators.eu/portal/page/portal/EER\\_HOME/EER\\_PUBLICATIONS/CEER\\_PAPERS/Customers/Tab3/C12-CEM-54-03\\_GGP-PCT\\_09Jul2012.pdf](http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_PAPERS/Customers/Tab3/C12-CEM-54-03_GGP-PCT_09Jul2012.pdf)

<sup>58</sup> Consumer Focus Confidence Code, <http://www.consumerfocus.org.uk/get-advice/energy/confidence-code>

<sup>59</sup> Ofcom accreditation scheme, <http://stakeholders.ofcom.org.uk/consultations/ocp/statement/pricescheme/consumerfaq/>

Also in the UK, Ofcom, the electronic communications regulator, has put in place an accreditation scheme for price comparison calculators of electronic communications services (such as fixed telephone, mobile, broadband, international roaming, bundled services).

Both the Consumer Focus Confidence Code and the Ofcom accreditation scheme, require CTs which apply for accreditation to undergo an initial **thorough audit, by independent auditors** as well as regular follow-up audits (every 12 to 18 months) to assess whether they comply with the requirements of the scheme.

Finally, in France, **FEVAD**<sup>60</sup>, the national trade association of e-commerce and distance selling has developed its own *Code of Conduct for comparison websites*<sup>61</sup>. Drafted together with the leading French comparison websites and endorsed by the French government, it contains provisions on the transparency and relevance of information provided by CTs to internet users as well as on the relationships between shopping websites and CTs. CTs signatories to the FEVAD Code can display the FEVAD trustmark on their website and have to undergo regular audits to verify their compliance with the Code. FEVAD has also set up a Trustmark Committee and a Trustmark Commission tasked to further update the Code and oversee the use of the trustmark. Internet users can complain to FEVAD or to the Trustmark Commission for any breach of the Code provisions.

All aforementioned initiatives seek to guarantee the transparency of CTs by defining a **specific set of principles** which CTs ought to respect. In the different examples brought to the attention of the MSDCT, **common themes** included:

- The independence and impartiality of CTs, particularly with regard to their relationship with sellers;
- Transparency concerning the CTs funding sources;
- Comprehensiveness in terms of offers and number of service providers covered;
- Clarity and completeness of the information provided;
- Correctness, accuracy and reliability of the data, for instance via clear information on the sourcing methods and the frequency of updates;
- User friendliness, especially with regard to the display of the information and the search functions available;
- Consumer empowerment and access to complaint handling schemes;
- Compliance with existing legislation.

***Key best practices:***

- **EU-wide principles of good practice** for CTs.
- **Regular independent audits** to monitor compliance of CTs with the rules of the accreditation scheme/code of conduct.
- **Trustmark logos** allowing consumers to identify a CT's adherence to the rules of the accreditation scheme/code of conduct.

<sup>60</sup> FEVAD website : <http://www.fevad.com>

<sup>61</sup> Code of Conduct for comparison websites : <http://www.fevad.com/reglementation/charte-des-sites-comparateurs#topContent>



## 5 MSDCT recommendations

On the basis of the above analysis, the participants of the Multi-Stakeholder Dialogue on Comparison Tools (hereafter "the MSDCT") agreed on a number of key recommendations, which are presented in this chapter.

### 5.1 Core principles

This first group of recommendations concerns indispensable horizontal principles, which participants agreed all comparison tools should respect in order to meet a satisfactory level of transparency and reliability.

#### 1) Transparency and Impartiality of comparison

*The MSDCT recommends that operators of comparison tools (CTs) are transparent about their business model and the methodology used for conducting comparisons. Comparisons conducted by CTs should be impartial.*

- **Transparency of the business model:** CTs should disclose their owners/shareholders, their financing model and any contractual or other relevant relationship between the CT and the sellers, producers or providers of products or services featured in comparisons conducted via the CT.
- **Impartiality:** Comparisons conducted by CTs should be impartial. Any contractual or other relationship with sellers, producers or providers should not affect the impartiality of the comparison.
- **Methodology and scope of comparisons:** CTs should explain the way in which they source data, the frequency with which it is updated, the criteria applied for the comparison and the methodology for ranking the results. They should specify the coverage of the comparison in terms of sectors, number of sellers and geographical scope. Consumers should be given a clear overview of the sellers featured on the CT; any important exception to the coverage of the CT in terms of major market players should be made known to consumers. The data sourcing method for each seller, or for each category of sellers, should be indicated separately, if different methods are used. Access to this information should be easy and prominently indicated.
- **Ranking:** When presenting comparison results in the form of a list, the criteria for ranking should be clearly and prominently indicated. Any form of advertising should be explicitly marked as such and should be clearly separated visually from the results of the comparison. Where price is one of the main criteria used for the comparison, consumers should always be given the option to switch to a view ranking offers in order of ascending price.

- **User reviews and ratings:** CTs should take measures to ensure, to the extent possible, the authenticity of the user reviews and ratings they feature, including technical measures against automated reviews and ratings. They should disclose their methodology for collecting reviews and calculating ratings. They should clearly distinguish, visually and structurally, between (known) sponsored and spontaneous reviews. They should give sellers the possibility to respond to user reviews and should require the authors' consent before removing any review which does not violate the law or the CT terms of use. CTs should not be able to remove reviews solely on basis of them being unfavourable towards a product or service, even upon the request of the seller concerned.
- **Accreditation:** CTs which are members of an accreditation scheme should prominently declare their affiliation and display the relevant logo, where one exists. They should provide consumers with easily accessible information on the conditions of membership and the specific aspects certified.
- **Contact details:** CTs should prominently display their contact details for consumer enquiries, including telephone number, postal and electronic address.

## 2) Quality of information

*The MSDCT recommends that operators of CTs take measures to ensure that the information provided by the CT is easily understandable, accurate and verifiable.*

- **Relevance and clarity:** Information provided by CTs should be relevant for assessing and comparing offers from a consumer perspective. It should be written in simple language, avoiding complex legal and technical terms, concise and not go beyond the level of detail necessary to enable consumers to make a meaningful comparison. CTs should however give the possibility to consumers to access more detailed information if they so wish, by applying where appropriate a layered information structure.
- **Comparability:** CTs should display, in a uniform manner and using the same units of measurement, the same set of information for all offers included in the same comparison to ensure comparability. When the products or services compared are not identical, differences in their characteristics should be clearly mentioned.
- **Accuracy:** CTs should ensure, to the extent possible, that the information they provide corresponds exactly to the offer as made available by the seller of the product or service. They should ensure that the information is updated regularly and frequently, to reflect the changes in the offers available. They should act promptly to correct inaccuracies once they become aware or are notified of them.

- **Full price:** CTs should provide consumers, in accordance with existing legal obligations – and where such obligations do not apply, to the extent possible – with the final product price, including applicable taxes, charges, surcharges, additional fees and delivery costs, and with a detail breakdown of these charges.
- **Verifiability:** CTs should enable consumers to easily verify the information, by indicating the contact information of the seller of the product or service and by providing a direct link to the sellers' website, when available.

### 3) Compliance and Redress

*The MSDCT recommends that operators of CTs act responsibly and put systems in place to deal efficiently with consumer concerns. Consumer protection legislation should be properly enforced also in the field of CTs.*

- **Complaint handling:** CTs should have in place a complaint handling policy, which should be clearly explained on the CT. CTs should respond to complaints promptly.
- **Redress:** CTs should provide consumers with information on redress mechanisms and the possibilities of recourse to out-of-court redress, including where appropriate on the competent alternative dispute resolution entities for each of the sectors they cover.
- **Personal data:** CTs should operate in full respect of data protection legislation, including opt-out options from third-party data sharing, and provide consumers with easy access to their privacy policy, written in clear and plain language.
- **Reporting:** Upon request, CTs should provide sellers and public authorities with reports on comparisons conducted for a specified period and specified products or services, to enable their assessment and facilitate the enforcement of applicable legislation and self-regulatory rules.
- **Enforcement:** Member State enforcement authorities should ensure compliance of CTs with the existing horizontal and sector specific consumer protection legislation, including with regards to consumer rights, unfair commercial practices, competition and data protection, by all means available to them, including, where appropriate and feasible, through “sweep-like” actions.

## 5.2 *Elements enhancing the consumer experience*

This second group of MSDCT recommendations focuses on elements which – whilst not applicable or achievable for all types of CTs or for all sectors – were nevertheless considered desirable, as they significantly enhance the consumers' experience when using CTs.

### 4) **Comprehensiveness**

*The MSDCT recommends that operators of CTs constantly aim at developing their services so as to provide consumers with comprehensive information as regards pricing, the terms of purchase, the number of offers, comparison parameters and the geographical scope covered by the CT.*

- **Reference price:** To offer consumers an objective overview of the market, undistorted by limited-time or personalised offers, CTs should indicate, where appropriate, for each seller to all consumers a fixed reference price or price range. This should not preclude displaying better offers to consumers under the cumulative conditions that the basis on which the offer has been made is transparent and the individualised price is clearly indicated along the reference price or price range.
- **Average price:** In the comparison of services provided on the basis of long-term contracts, comparisons should take into account the average price offered by an operator for the use of the service over a reasonable period of time, so as to ensure that the result of the comparison is not distorted by limited-time discounts, especially introductory offers.
- **Terms of purchase:** CTs should clearly indicate for each offer whether it is available at the time the comparison is conducted, the estimated delivery time, the main contract terms and any special clauses applicable. They should include information about the period of withdrawal, the duration and the coverage of the warranty and the shipping costs in case of return.
- **Comparison parameters:** In addition to price information, CTs should aim at including multiple evaluation criteria, allowing for a comprehensive comparison of products and services. Such criteria could include the overall quality of the product, the level of consumer satisfaction based on user ratings and reviews, the sustainability and environmental performance – including official environmental labelling, where applicable – and the conformity with social responsibility standards.
- **Coverage:** CTs should aim at including the broadest possible range of offers, so as to give a representative overview of the surveyed market sector. The CT should cover a significant part of the market and include the main actors in the sector surveyed. When a comparison is limited to specific sellers or to a specific geographical area this should be clearly communicated to the consumers before presenting them with the results of the comparison.

## 5) User-friendliness

*The MSDCT recommends that operators of CTs organise the information on the CT in a user-friendly manner, taking into account also the needs of more vulnerable consumers, and that they incorporate features enabling consumers to extract the information that is most relevant to their individual needs.*

- **Display and user interface:** Information displayed on CTs should be easily readable and visually organised in a user-friendly manner. CTs should apply user interfaces that are simple to interact with and do not require advanced technological skills. They should provide a clear overview of the main features of the CT on the start page. To the extent possible, comparison results should, in default view, be presented on a single page and provide an overview of all the main features of the products or services.
- **Personalisation:** CTs should integrate modifiable settings and search, filtering and simulation functions so as to allow users to filter results according to their individual preferences, geographical location or personal consumption patterns.
- **Accessibility:** CTs should incorporate features that make them accessible also to vulnerable consumers, such as persons with disabilities and the elderly. Online CTs should be developed in line with the Web Accessibility Guidelines (WCAG). To the extent possible, alternatives to online comparisons should be available to consumers, free of charge or at a minimal cost.

### 5.3 Recommended future action

This final group of recommendations contains suggestions by the MSDCT participants on follow-up actions which could be taken at EU level with the aim of further improving the functioning of comparison tools, also in view of the future development of cross-border comparison tools.

## 6) Awareness-raising

*The MSDCT recommends that coordinated efforts are made in the EU to improve consumer awareness of CTs.*

- The Commission, the Member States, regulators, consumer organisations and comparison tools operators should work together on ways to raise awareness on the existence and functioning of CTs and to provide consumers with the information and skills necessary to use them with confidence. This could include promoting efforts for the creation of web portals compiling information and where possible providing direct links to existing CTs.

## 7) Enhanced enforcement coordination

*The MSDCT recommends that coordinated efforts are made in the EU to ensure effective enforcement of relevant consumer protection rules in the field of CTs.*

- The Commission and the Member States should work together to ensure effective enforcement of consumer protection legislation in the field of CTs through collaboration with stakeholders, exchange of information and best practices, efficient monitoring of the market and through joint actions.

## 8) Further research and analysis

*The MSDCT recommends that further systematic research is undertaken to provide a better understanding of the functioning of CTs and their influence on consumers.*

- The Commission should continue to build its knowledge base, taking into account the constant emergence of new types of CTs. Key areas of interest to the MSDCT include:
  - A study into consumer behavioural patterns in the use of CTs and their influence on consumers' decision-making;
  - An extensive mapping exercise of the comparison tools available in the EU accompanied by a survey on consumer perception and experience of comparison tools (analysis by sector and by country);
  - An analysis of existing accreditation and trustmark schemes for CTs and an assessment of the possibility of introducing an accreditation obligation for CTs in sectors of high importance for consumers;
  - An analysis of the evolution of personalised dynamic pricing, including an assessment of how relevant technologies might affect aspects such as transparency and data protection.

## 9) Guidelines from the Commission

*The MSDCT recommends that work is undertaken at EU level to establish guidelines on horizontal principles for the transparency, impartiality and reliability of CTs and to address issues specific to the functioning of CTs in key sectors of the EU Single Market.*

- The Commission in consultation with stakeholders, including through a multi-stakeholder reference group, should develop a set of horizontal guidelines for comparison tools operating in the EU. These should further develop the principles highlighted in the MSDCT recommendations and provide concrete guidance to promote and improve the functioning of CTs for the benefit of European consumers and to help enforcers identify and stop unlawful, unfair or misleading practices in this sector.
- The Commission should ensure coordination and consistency of all EU policies and regulatory initiatives affecting the functioning of CTs in different sectors. In consultation with stakeholders, the Commission should assess the need for additional measures to address issues specific to CTs specialising in key sectors, such as telecommunications.

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## ANNEX: List of MSDCT Participants and Speakers

| <b>Consumer representatives</b>                    |                              |
|--|------------------------------|
| <b>Participants:</b>                               |                              |
| APC (Romania)                                      | Emil Bojin                   |
| BEUC   | Ursula Pahl                  |
| Consumer Focus (UK)                                | Marzena Kisielowska-Lipman   |
| DECO (Portugal)                                    | Paulo Fonseca<br>Miguel Lage |
| EPKAS-CPU OF SERRES (Greece)                       | Konstantinos Dagkos          |
| OCU (Spain)  | David Ortega                 |
| Test-Achats / Test-Aankoop (Belgium)               | Gilles de Halleux            |
| ECC Italy  | Alice Monitillo              |
| ECC Romania  | Romulus Moise                |
| ECC Slovenia                                       | Ursula Smid Bozicevic        |
| ECC Spain  | Laura Blazquez Requena       |
| <b>Speaker:</b>                                    |                              |
| BEUC/ZPS (Slovenia)                                | Breda Kutin                  |
| <b>National authorities and regulators</b>         |                              |
| <b>Participants:</b>                               |                              |
| BEREC/Anacom (Portugal)                            | Manuela Quintano             |
| BEREC/Ofcom (UK)                                   | Alan Pridmore                |
| CEER/Vreg (Belgium)                                | Dirk Van Evercooren          |
| CREG (Belgium)                                     | Benedikt Joos<br>Kurt Hernot |
| e-Control (Austria)                                | Sabina Eichberger            |
| Institut National de la Consommation (France)      | Emmanuel Masset-Denevre      |
| Ministero Sviluppo Economico (Italy)               | Anastasia Crudele            |
| Ministry of Economy, Energy and Tourism (Bulgaria) | Vasil Ranov<br>Hristo Tomov  |
| Ministry of Economy (Slovakia)                     | Dagmar Skackova              |
| <b>Speakers:</b>                                   |                              |
| BEREC/Anacom (Portugal)                            | Carlos Costa                 |
| BEREC/Ofcom (UK)                                   | Chris Taylor                 |
| CEER/Ofgem (UK)                                    | Kate Smith                   |
| <b>Business representatives</b>                    |                              |
| <b>Participants:</b>                               |                              |
| AIM  | Anders Ladefoged             |
| eCommerce Europe<br>eCommerce Europe/FEVAD         | Axel Gillet<br>Marc Lolivier |
| EMOTA  | Razvan Antemir               |
| EuroCommerce                                       | Fatma Sahin<br>Manisha Patel |



|  |   |
|--|---|
| <i>Eurocommerce/Danish Chamber of Commerce</i>         | Lone Rasmussen  |
| <i>Eurocommerce/ British Retail Consortium</i>         | Graham Wynn   |
| FoodDrinkEurope  | Dirk Jacobs<br>Caterina Gubbiotti   |
| <b>Speakers:</b>                                       |   |
| Aanbieders.be/MesFournisseurs.be                       | Charles Dekkers   |
| Amadeus  | Juan Jesús García Sánchez   |
| Ariase   | Stéphane Pau  |
| Civic Consulting                                       | Donald Blondin  |
| CompareGroup   | Maurice Barten  |
| dlahandlu.pl   | Edyta Kochlewska  |
| EDiMA  | Jean-Philippe Monod   |
| FIPRA  | Phil Evans  |
| GS1  | Massimiliano Minisci<br>Joe Horwood   |
| Kelkoo   | Astrid Canevet  |
| Noteo  | Baptiste Marty  |
| Verivox  | Andrew Goodwin  |
| <b>European Commission</b>                             |   |
| DG Health and Consumers                                | Carina Törnblom<br>Olivier Micol<br>Julien Brugerolle<br>Maria Myrto Kanellopoulou<br>Antonia Fokkema<br>Gianpaolo Scacco<br>Konstantinos Zisis |
| DG Justice   | Tomasz Dolny<br>Angelo Grieco<br>Sophie Ridoux  |
| DG Internal Market and Services                        | Mihail Adamescu<br>Patricia Lamotte<br>Marek Lysy   |
| DG for Communications Networks, Content and Technology | Alis Irena Riviere-Osipov<br>Tomas Soria Esteban  |
| DG Mobility and Transport                              | Christophe Dussart  |
| DG Energy  | Giulia Pizzio   |
| DG Environment   | Patrice Gruszkowski   |
| Eurostat   | Charlotte Mahon   |