

# Call for information

The commercial use of consumer data

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## Introduction

1. Firms are increasingly collecting and using data from, and about, consumers - including the identity of their customers, what they consume, where they live and work and other demographic information, as well as information on who they connect with, their interests and attitudes. Our reference to consumer data in this call for information is broad. It includes, for example, data about an individual consumer (personal data) as well as metadata (the analysis of data patterns from consumers' web searches that enable groups of consumers to be targeted according to some common characteristics even if their individual identities are not known).
2. The business models of many firms in different sectors of the economy rely increasingly on the acquisition and use of this information. New business models have emerged that use consumer data to target and personalise products and services.
3. The collection and use of consumer data by firms is not new. Many large retailers, for example, have used loyalty cards for over two decades to collect information on consumers' preferences in order to improve their understanding of their customer base, seek to target promotions and drive business.
4. The last decade has seen rapid growth in the volume, variety and commercial applications of consumer data, driven by technological developments which enable data to be collected and analysed in increasingly rapid and

sophisticated ways. Data exchange is likely to become even more important as mobile internet devices and smart devices become more prevalent.<sup>1</sup>

5. The collection and use of consumer data by firms creates scope for significant benefits. In efficient and well-functioning markets, these benefits should accrue to consumers and firms, creating benefits for the wider UK economy including, for example:
  - lower prices for consumers purchasing products and services as a result of increased efficiency in the market;
  - better quality, targeted products designed to meet the needs of consumers as a result of improved information;
  - better targeting of advertising of products and services likely to be of interest to particular consumers; and
  - more tailored suggestions and purchasing advice for consumers through specialist websites on the basis of their data.
6. These benefits may also lead to innovative new products and markets. This greater efficiency and innovative new activity could contribute to increased economic growth. Alongside these benefits, however, there are potential concerns about what consumers understand about how that data is gathered and used. There might also be risks to competition and future innovation if firms' access to data is unduly restricted.

## Call for information

7. The Competition and Markets Authority (CMA) aims to make markets work well for consumers, firms and the economy. Our Strategic Assessment<sup>2</sup> sets out some areas where we are looking for a better understanding of developments and practices, highlighting the commercial use of consumer data as one example. Given this, together with the growth in the collection and use of consumer data and the importance of this for consumers, our call for information is seeking to clarify the benefits obtained from the collection and use of consumer data.
8. We also wish to understand the potential for the collection and use of consumer data to generate concerns, both in terms of competition in markets,

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<sup>1</sup> Smart devices are electronic devices wirelessly connected to other devices and networks. These include, for example, smart TVs, smart fridges and energy meters and wearable technology such as smart watches.

<sup>2</sup> CMA Strategic Assessment, November 2014, CMA35, paragraph 5.20.

as well as consumer protection. As a result, we are today launching a call for information about the commercial use of consumer data.

## The scope of our call for information

9. **Our call for information** is a fact-finding exercise to increase our knowledge and understanding about the use of consumer data in the UK economy. This is focused on consumer data which:
  - relates to UK consumers and is collected both inside and outside the UK both in the context of the internet and more widely;
  - is collected directly by businesses as well as by appliances, applications and cloud services;
  - is collected at any time, both with and without the knowledge of consumers;
  - includes both data on specific transactions for goods and services (including paid for and free-at-use services) as well as data not specific to such transactions; and
  - is used by:
    - firms dealing directly with consumers (for instance to target groups and individuals with offers); and
    - third party firms (using data sourced from firms dealing directly with consumers) who analyse this data to provide commercial services to other firms.
  
10. The following areas are outside the scope of this call for information:
  - spam, phishing, and other forms of non-targeted marketing;
  - data on consumers resident outside the UK;
  - data collected for management information and logistics only;
  - data collected by the public sector; and
  - data collected for academic and research purposes.

## Key areas to explore

11. We are looking to explore a number of areas in relation to the collection and use of consumer data including how it may develop in the coming years. These include understanding more about how:
- the use of consumer data may generate benefits for consumers – we are aware that there is a wide range of potential benefits for consumers from the use of consumer data and would like to understand more about the extent to which these arise in practice and the types of data that can generate them;
  - consumer data is collected – we are interested in the range of ways in which consumers provide information to firms. Consequently, we would like to explore the level of consumer understanding about the collection of their data and whether this is being carried out in a fair manner. We would also be interested in the market impact of consumer protection legislation and other relevant regulations. We will not be examining concerns relating to individuals' privacy and data protection, as these are relevant to regulators and bodies other than the CMA;<sup>3</sup>
  - firms generate value from and use consumer data – there is a wide range of ways in which different firms may use consumer data and we are seeking to understand these and the value that is generated through the use of consumer data;
  - consumer data is aggregated, bought and sold – in addition to firms' internal uses of consumer data, we are looking to understand the licensing, commercial use and re-use of consumer data by different companies;
  - the collection and use of consumer data can generate value for the wider economy – we are interested in understanding the extent to which consumer data is adding value to existing sectors and creating new markets in the UK economy; and
  - the use of consumer data may also lead to problems for consumers – where possible concerns may include:
    - whether access to data is limited such that it constrains new entry or growth by new, potentially innovative, providers; and

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<sup>3</sup> In particular, the Information Commissioner's Office (ICO) is responsible for upholding information rights.

- low levels of awareness or understanding among consumers of the data collected and its uses, together with limited tools for them to control what data they provide, could mean that it is hard for consumers to have sufficient control of how information is used.

## Responding to the call for information

12. We are interested in receiving submissions from any interested parties, including consumers and representatives of consumers, individual firms and their representatives, trade bodies, research and academic organisations and others with experience of analysis in this area, including firms providing consumer data processing and analysis (Infomediaries). We are keen to receive submissions which are supported by the inclusion of robust and clear evidence to support any views offered.
13. Responses which address and provide evidence on the following questions are of particular interest to us, although we welcome all responses:

### **A) Consumer data collected, bought, sold, and its value**

1. What types of information do firms collect on consumers and how is this collected?
2. What data and analysis do firms acquire from third parties and at what cost?
3. To what extent do firms collecting consumer data sell/licence it to, or exchange it with, third parties and what contractual arrangements apply (including pricing)?
4. For how long do different types of consumer information retain value for firms?

### **B) Uses of consumer data, restrictions in gaining access and controls available to consumers**

5. How do firms use consumer data and analysis, and for what sectors is access to this data most important?
6. What restrictions do firms experience in acquiring consumer data and analysis, and what alternatives to collecting and using consumer data are available? What impact do these restrictions have where present?
7. What evidence is there that consumers understand and consent to the information firms collect about them and how it will be used?
8. How do firms provide consumers with information on, and control over, the collection and use of their data, and what are the consequences for consumers who exercise control?

### **C) The benefits and risks from using consumer data**

9. How do consumers benefit from firms using consumer data? To what extent are consumers aware of these benefits?
10. How do firms benefit from the use of consumer data? To what extent are consumers aware of the benefits to firms?
11. What are the risks to both consumers and firms from the collection and commercial use of consumer data? For example, does a lack of access to data create a barrier to entry for smaller firms and detriment to consumers in a market?

**D) Policy implications and possible future developments**

12. What measures are firms taking to raise consumer awareness about the collection and use of data, while ensuring that both firms and consumers benefit from the use of consumer data?
13. What potential competition, policy, legal or regulatory changes might help to ensure or enhance the benefits for consumers and firms from the commercial use of consumer data?
14. What do you see as the main developments expected in the next 3 years in the collection and use of consumer data for commercial purposes? What are the likely implications of these developments?

14. To respond to this call for information, please either:

- (a) complete our [online response form](#). This is ideal for people who have specific brief points to make or do not wish to attach large documents to their response; or
- (b) complete and email or post to us the [response form found on our website](#). Email or post responses are most suitable if you wish to include supporting charts, tables or other evidence as part of your submission, or where your response includes material that may be confidential.

**Email to:** [ConsumerData@cma.gsi.gov.uk](mailto:ConsumerData@cma.gsi.gov.uk).

**Post to:** Consumer Data Call for Information  
Competition and Markets Authority  
7<sup>th</sup> floor  
Victoria House  
37 Southampton Row  
London WC1B 4AD

15. In providing responses please:

- be aware that the CMA is unable to provide individual consumers with redress in relation to concerns about their consumer data and how it is



used. The Information Commissioner's Office (ICO) is responsible for upholding information rights; and

- identify any material that you consider to be confidential, and provide a description of why this is the case. The disclosure of information which relates to the affairs of an individual or any business of an undertaking and which comes to us in the course of a Call For Information is governed by the statutory gateways in Part 9 of the Enterprise Act 2002 and such information can only be released in particular circumstances set out in the Act. Further information on this issue can be found on our [website](#).

## Timing and outcomes

16. Please respond to this call for information as soon as you are able, and in any case by **5pm on Friday 6 March 2015**.
17. This call for information is part of a wider CMA project examining the collection and use of consumer data for commercial purposes. We would like to meet with key stakeholders and we may also hold roundtables with a number of them following the call for information. We also intend to commission research to explore further how consumer data is collected, bought, sold and used in specific markets in the UK.
18. We will analyse the evidence we have collected and publish our findings in summer 2015.

## Previous work in this area

19. The Office of Fair Trading (OFT), one of the predecessors of the CMA, was active in examining some of these developments surrounding consumer data. For example, in 2013 the OFT carried out a call for information in relation to personalised pricing which found that transparency and awareness about the collection and use of consumers' information is low.<sup>4</sup> The OFT provided advice to a number of firms on how they could be more transparent about their practices in this area. This built on previous work by the OFT examining online targeting of advertising and pricing during 2010.<sup>5</sup> The OFT also published a review of price comparison websites in 2012, which noted that such sites often collect detailed information on consumers. The OFT encouraged the sites to have prominent privacy policies and consumers to

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<sup>4</sup> Office of Fair Trading (OFT), Personalised Pricing – Increasing Transparency to Improve Trust, May 2013.

<sup>5</sup> Office of Fair Trading (OFT), Online Targeting of Advertising and Prices Market Study, May 2010.

read these and consider whether they wanted their personal information to be passed to other companies.<sup>6</sup>

20. In 2014, Ofcom commissioned work from Analysys Mason addressing the online data economy value chain.<sup>7</sup> This examined the role of online consumer data in five communications markets. The report focused on ways in which online consumer data is used in these sectors, how it is contributing to growth, and what factors may support or hinder the further development of consumer data-based business models. Ofcom has also been considering the implications of the emerging Internet of Things.<sup>8</sup>

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<sup>6</sup> Office of Fair Trading (OFT), Price Comparison Websites – Trust, Choice and Consumer Empowerment in Online Markets, November 2012.

<sup>7</sup> [Analysys Mason \(2014\) 'Report for Ofcom – Online data economy value chain'](#)

<sup>8</sup> Ofcom, Promoting investment and innovation in the Internet of Things (2014).