



Partnership for the Enforcement of European Rights (PEER)

Roundtable on Digital Comparison Tools in Customer Journeys

Online, 7-9 June 2021

Fostering energy markets,
empowering **consumers**.

The PEER Concept

PEER is an initiative launched by the **Council of European Energy Regulators (CEER)** to enhance cross-sectoral regulatory cooperation so as to strengthen the enforcement of EU consumer rights across several sectors.



Established in 2017, PEER aims to **enhance regulatory cooperation, at EU level, across sectoral regulatory authorities** (e.g. telecoms, financial, energy) **and other public bodies** (consumer authorities, data protection authorities, ombudsmen, competition authorities, etc.) responsible for enforcing consumer rights in a range of sectors. It also promotes dialogue and engagement with organisations representing consumer interests.



Roundtable on Digital Comparison Tools in Customer Journeys

On 7, 8 and 9 June PEER held an online roundtable on Digital Comparison Tools. The three-day event explored whether existing principles governing comparison tools are still fit-for-purpose, taking into account the challenges and opportunities that the green and digital transitions present to consumers.

The June roundtable brought together **experts from academia, competition authorities, multi-sectoral regulators and consumer organisations**. The discussions were divided into **three sessions**, focussing on three closely interlinked issues regarding the role of comparison tools in supporting competition whilst facilitating consumer engagement and market transparency.

Building on the discussions and insights shared during this PEER roundtable, **CEER plans to update its Guidelines of Good Practice on comparison tools by the end of 2021/beginning of 2022.**



Roundtable on Digital Comparison Tools in Customer Journeys

7 June



Day 1 - Issues in the online platform economy

8 June



Day 2 - A consumer view/the consumer experience: dynamic contracts, new intermediaries and comparing service quality levels

9 June



Day 3 - Promoting fairness and transparency for users of online intermediation – future challenges and opportunities



Day 1: Issues in the online platform economy (7 June)



Agenda

<p>10:00 – 10:30</p>	<p>Welcome address on the Partnership for the Enforcement of European Rights (PEER) and housekeeping rules</p>	<p>Annegret Groebel, CEER President</p>
	<p>CEER key principles and standards for comparison tools (past and future work)</p>	<p>Natalie McCoy, Jana Haasová CEER</p>
<p>10:30 – 12:00 Session I Panel discussion with short (10 min) initial interventions</p>	<p>Issues in the online platform economy (current state and future developments)</p>	<p>Moderator: Alberto Pototschnig Executive Deputy Director, World of Practice, Florence School of Regulation</p>
	<p>Key findings from 2020 market analysis of comparison websites in Hungary</p>	<p>Dr László Bak Vice President, Hungarian Competition Authority (GVH)</p>
	<p>Key findings from the 2019 sector inquiry on comparison websites in Germany</p>	<p>Stefan Arent Deputy Head, International Coordination, Federal Network Agency, BNetzA (DE)</p>
	<p>Comparison tools serving consumers in evolving markets. Are comparison tools ready for new offers?</p>	<p>Martin Salamon Chief Counsel, Danish Consumer Council</p>
<p>12:00 – 12:15</p>	<p>Closing of Day 1</p>	



Day 2: A consumer view/the consumer experience: dynamic contracts, new intermediaries and comparing service quality levels (8 June)

Agenda

<p>10:30 – 10:45</p>	<p>A consumer view/the consumer experience: dynamic contracts, new intermediaries and comparing service quality levels</p>	<p>Moderator: Monique Goyens BEUC Director General</p>
<p>10:45 – 12:15 Session II</p> <p>Panel discussion with short (10 min) initial interventions on exemplary comparison tools that help build consumer trust</p>	<p>From the Clean Energy Package to the Green Deal: new energy services to help Europe achieve its climate objectives</p> <p>Lessons from the telecom sector on dynamic tariffication models (issue of voluntary accreditation schemes and no formal sanctions other than suspension or exclusion for non-compliance)</p> <p>Dynamic electricity price contracts and comparison websites</p> <p>Case studies from dynamic prices for electricity in Austria (business models and CTs)</p>	<p>Tadhg O’Brian Deputy, Consumers, Local Initiatives, Just Transition, DG ENER, European Commission</p> <p>Michel Van Bellinghen BEREC Chair</p> <p>Andreas Strandskog Senior Political Advisor, Norwegian Consumer Council</p> <p>Harri Mikk Spotty GmbH (Austria)</p>
<p>12:15 – 12:30</p>	<p>Closing of Day 2</p>	



Day 3: Promoting fairness and transparency for users of online intermediation – future challenges and opportunities (9 June)



Agenda

<p>10:00 – 10:15</p>	<p>Promoting fairness and transparency for users of online intermediation – future challenges and opportunities</p>	<p>Moderator: Kasper Drazewski Senior Legal Research Officer – Consumer Law (BEUC)</p>
<p>10:15 – 12:15 Session III</p> <p>Panel discussion with short (10 min.) initial case studies</p>	<p>Trust and online markets</p> <p>Data protection and comparison websites</p> <p>Personalised pricing in essential markets</p>	<p>Andrew Hadley Assistant Director, Policy, Advocacy and International, Office of the General Counsel, UK Competition and Markets Authority, Vice-Chair of the OECD Committee on Consumer Policy</p> <p>Giovanni Maria Riccio Partner at E-Lex, Professor of Comparative Media Law, Copyright Law, Cultural Heritage Law, Università di Salerno (IT)</p> <p>Peter Rott Interim Chair of Civil Law, Commercial Law and Information Law, Carl von Ossietzky University of Oldenburg (DE)</p>
<p>12:15 – 12:30</p>	<p>Closing of Day 3</p>	<p>Natalie McCoy, Jana Haasová CEER</p>



Day 1: Issues in the online platform economy (7 June)



The panel on the first day shared their insights on understanding what drives consumer behaviour, as well as practical analysis of how comparison tools across several sectors are functioning, following two sector inquiries undertaken in Germany and Hungary on such tools.

The presentations and discussions revealed several key issues regarding the governance, design and trustworthiness of comparison tools across several sectors.

1

How can policymakers, regulators and operators ensure that comparison websites are exhaustive, correct and accurate?

2

What does transparency in the operation of a comparison website mean?

3

How can trustworthiness be provided? Can trust marks play a role?





Day 1: Issues in the online platform economy (7 June)



1

How can policymakers, regulators and operators ensure that comparison websites are exhaustive, correct and accurate?

Commercial versus non-commercial comparison tools. Differences in business models may directly affect the outcomes for consumers seeking to compare offers. In particular, commercial comparison tools may not represent the entire market and may have contractual practices (fees, commissions, rankings, etc.) which influence companies' willingness to submit their offers. Indeed, market analyses carried out across Europe highlight that, in some sectors, issues in commercial comparison tools do not allow consumers to achieve the best outcomes.

Objectivity and completeness of the information. Investigations have shown that comparison tools in some markets do not show actual prices, do not properly inform consumers about sponsored content; manipulate the ranking making consumers believe that the order was created on the basis of their search settings; withhold or falsely display details for some products; or display only a narrow list of possible products and display products that are not available. Such issues must be addressed in the legal requirements for comparison tools, be they public or private.

The influence of search engine results. Consumers may initially look for comparison tools via an internet search engine, which itself has algorithms affecting which results it presents. If well-designed commercial comparison tools are not featured among the first results on a search engine, then consumers may end up conducting an incomplete comparison and making a choice based on limited information. Policymakers and regulators should look at how to promote well-designed comparison tools in addition to the design requirements themselves.

Non-commercial comparison tools are often not sufficiently promoted.



Day 1: Issues in the online platform economy (7 June)



2

What does transparency in the operation of a comparison website mean?

Result ranking. In some countries, there are issues regarding how offers/products are ranked. For example, most comparison tools in Germany show some offers before the ranking starts (i.e. “in Position 0”). These offers are not necessarily picked because they are the best choice for the consumer. This is an issue that needs to be addressed, as a market analysis conducted by Nielsen Piackutató Kft. has shown that the first 5 results on a comparison website receive 90% of the website users’ attention.

Comprehensiveness

- Commercial comparison tools may request a fee from suppliers in order to display their offers. Such requirements may **reduce the representativeness of the results presented by the commercial comparison tool** and thus available to a consumer when seeking to choose a product/offer. Generally, it has been suggested that consumers should rely on more than one comparison tool and compare their results. However, very few consumers would do this.
- **Comprehensiveness may be less of an issue for non-commercial comparison tools in regulated sectors.** The regulator could require all suppliers to provide information on all offers to the non-commercial comparison tools and could require comparison tools to include all offers. When this is the case, generally regulators allow comparison tools not to include offers that have some issues (e.g. unusually burdensome clauses).



Day 1: Issues in the online platform economy (7 June)



3

How can trustworthiness be provided? Can trust marks play a role?

Consumer motivation and behaviour. Markets should improve their understanding of what motivates consumers to behave the way they do. Information should be targeted to “speak” to consumer goals and values, which may range from hedonistic, to egoistic, to altruistic, to biospheric.

Consumer perspective. Most comparison tools are not designed from the point of view of the consumer and their key question when performing a search, which is whether there are offers on the market that are better than their current offer. Comparison websites should allow consumers to include information from their latest bill, so that they are able to compare new offers with their current one.

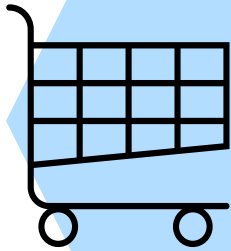
Trust marks, both at EU and national level, could be a helpful tool to certify the trustworthiness of comparison tools.

Data from smart meters. Consumers should be able to provide smart meters authorisation to access to energy data from their smart meters to achieve full personalisation that can also help consumers understand whether dynamic price offers are a good option for them.

Green offers. 77% of Danish consumers say that they have a responsibility to support the green transition. There is a need to develop transparent and reliable principles for green offers. The system set up by the Danish consumer authority foresees that green energy offers could be granted zero, one or two green leaves, based on their degree of sustainability.



Day 2: A consumer view/the consumer experience: dynamic contracts, new intermediaries and comparing service quality levels (8 June)



During the second day of the roundtable, participants heard perspectives from the European Commission, telecommunications regulators, consumer organisations and an energy supplier offering dynamic prices.

The discussions during the session centred on several key questions regarding the inclusion of new types of offers in comparison tools.

1

How to best include dynamic price contracts in comparison tools?

4

How can comparison tools promote improvements in the quality of offers?

2

How should bundled offers be included in comparison tools?

5

How to ensure that a comparison tool truly provides the best outcomes to consumers?

3

How should information on sustainability be featured in comparison tools?





Day 2: A consumer view/the consumer experience: dynamic contracts, new intermediaries and comparing service quality levels (8 June)

1

How to best include dynamic price contracts in comparison tools?

Dynamic price contracts bring benefits to the environment and to the consumer – as price signals indicate the availability of renewable energy and the appearance of new offers can put competitive pressure on suppliers; hence reducing electricity prices for consumers. However, these potential benefits will only become a reality if such offers become mainstream. For this to happen, communication to consumers should be improved. We cannot expect consumers to check prices all the time, hence the industry should not only focus on providing detailed information on future prices, but needs to think of communication and marketing strategies that can be effective in engaging consumers. These should have simplicity at their core and take into account the risk of cognitive overload. For instance, well-designed price comparison tools can help to compare dynamic price contracts as it is already the case in Norway.

The comparison tool operated by the Norwegian Consumer Council allows consumers to compare among dynamic price offers and provides an estimate of the yearly bill that a consumer would receive.

Simplicity is key. The energy component in dynamic offers should be formulated as the wholesale spot price plus a markup. Markups should be expressed in one single number and complicated formulas should be avoided. This is fundamental to allow consumers to compare among different dynamic price offers.





Day 2: A consumer view/the consumer experience: dynamic contracts, new intermediaries and comparing service quality levels (8 June)



1

How to best include dynamic price contracts in comparison tools?

Comparison tools should be inclusive of new offers. New offers have difficulty in becoming popular in several markets, because commercial comparison tools, whose main interest is making consumers switch as frequently as possible (as they receive a commission for every switch), ultimately determine what products should be promoted. If consumers are not interested in new types of offers, these may be penalised by comparison tools to avoid a reduction in the switching rates they generate.

There are challenges in comparing fixed and dynamic offers. The difficulty in comparing dynamic and fixed prices results from the fact that information is available on past prices and their evolution, but there is no information on future prices that will appear in a dynamic price offer. The Norwegian price comparison tool overcomes this issue by listing dynamic and fixed price tariffs in two different categories. However, in markets in which these offers are new, the issue becomes which tool is then fit-for-purpose in order to clearly display the financial benefits of dynamic price offers vis-à-vis those of fixed price offers.





Day 2: A consumer view/the consumer experience: dynamic contracts, new intermediaries and comparing service quality levels (8 June)



2

How should bundled offers be included in comparison tools?

There are different approaches in different sectors and different countries.

The comparison tool operated by the Norwegian Consumer Council does not show bundled offers, to simplify the comparison.

In telecommunications markets, bundled offers are generally included, but the regulation setting out the rules on how to include them is very detailed. For example, in the Belgian telecommunications market, it is forbidden to say in marketing materials that devices are given for free.

3

How should information on sustainability be features in comparison tools?

In Luxembourg, all suppliers offer green offers, backed by guarantees of origin. To provide consumers with an additional option to support the green transition, suppliers are now offering green contracts, selling locally produced renewable electricity.

In France, a label clarifying which offers are sustainable and their sustainability level will be introduced.



Day 2: A consumer view/the consumer experience: dynamic contracts, new intermediaries and comparing service quality levels (8 June)

4

How can comparison tools promote improvements in the quality of offers?

Comparison tools should not only focus on the price, but on all clauses (e.g. length, quality of service). If too much focus is put on the price, then suppliers may reduce the quality of other elements of the offer.

A good case study is the comparison tool operated by the Norwegian Consumer Council (NCC), which helped improve contracts available on the market. In the past, suppliers were changing prices with 14 days of notice and without informing the consumer. NCC started classifying contracts without a guaranteed price first for 6 and then for 12 months as “short term contracts”. The result was that suppliers started competing also on how long the price was guaranteed for.

Personal preferences given to parameters of an offer may affect the comparison experience. For example, in the telecommunications sector, different consumers value differently parameters such as internet speed or which TV channels are included in the offer. Similarly, in the energy sector different consumers may give different weight to factors such as sustainability, customer service, etc. Filtering options can allow consumers to rank offers according to their personal preferences.





Day 2: A consumer view/the consumer experience: dynamic contracts, new intermediaries and comparing service quality levels (8 June)



5

How to ensure that a comparison tool truly provides the best outcomes to consumers?

The policy adopted in the energy sector to impose at least one independent, neutral and good quality comparison tool seems a good approach to provide help to consumers in complex markets

However, operating a good quality comparison tool will remain a challenge, especially in terms of resources. The operator of the comparison tool needs to be adequately staffed to check all the offers.

In some markets, suppliers are required to provide the energy regulator's comparison tool with up to date information on their offers. However, this could be problematic especially for smaller suppliers, as they need sufficient human resources to report regularly.

Certification from nationally appointed authorities can be a powerful tool to certify trustworthy comparison tools.





Day 3: Promoting fairness and transparency for users of online intermediation – future challenges and opportunities (9 June)



The third and final day of the roundtable focused on competition and legal considerations linked to consumer rights and protection, including as the use of their data.

1

How can comparison tools support consumers in making better choices in the online environment?

2

How should comparison tools treat consumer's data?

3

What are the risks of personalised offers in essential markets?



Day 3: Promoting fairness and transparency for users of online intermediation – future challenges and opportunities (9 June)



1

How can comparison tools support consumers in making better choices in the online environment?

The **CARE principles** (Clear, Accurate, Responsible, Easy to use) developed by the UK's Competitions and Market Authority (CMA) can be applied to comparison tools in all sectors.

The legal provisions in the **Unfair Commercial Practices Directive** are **very vague** and most regulators are reluctant to rely on it for enforcement actions. The Directive should be clarified, especially concerning its interrelations with the General Data Protection Regulation (GDPR).

A **market study** conducted by the CMA revealed that **comparison tools do help consumers make better choices**, but that there is a risk of distortion of choice if such tools lack transparency. In addition, in some markets, agreements between comparison tools raise serious competition concerns and have led to ongoing enforcement actions to solve abuses. The Unfair Commercial Practices Directive provides legal ground for such enforcement actions.

Outcome-based regulation could be a sensible approach. It is important not only to look at how to design processes and platforms, but also at whether these effectively cause damage to consumers.

Trust marks can help consumers understand which comparison tools can provide the best outcomes for them.



Day 3: Promoting fairness and transparency for users of online intermediation – future challenges and opportunities (9 June)



1

How can comparison tools support consumers in making better choices in the online environment?

It is important that the organisations issuing trust marks are not driven by commercial interests. This would undermine the trustworthiness of trust marks. The only sensible way out is that these organisations are public organisations or publicly subsidised.

The OECD has carried out significant work on consumer trust in online environments: [Roundtable on dark commercial patterns online](#), a [Toolkit for protecting digital consumers](#), a [Report on understanding online consumer ratings and reviews](#), a [Report on strengthening trust in business](#), and a [Policy note on the role of online marketplaces in enhancing consumer protection](#).



Day 3: Promoting fairness and transparency for users of online intermediation – future challenges and opportunities (9 June)



2

How should comparison tools treat consumer's data?

The GDPR requires companies processing consumers' data to follow the principle of transparency, which means that the information provided to the data subject should be concise, easily accessible and easy to understand. The goal is to enable consumers to make informed choices on how their data is treated.

In practice, consumers struggle to make such informed choices. Privacy policies are not written in a way that consumers, or not even lawyers, can understand.

“Easy to understand” concept in EU legislation should be better clarified. At the moment, it does not provide sufficient legal certainty for consumers or for the industry.





Day 3: Promoting fairness and transparency for users of online intermediation – future challenges and opportunities (9 June)



3

What are the risks of personalised offers in essential markets?

There is a need to regulate personalised pricing. These practices have not yet been properly addressed because it was impossible in a non-digital world. In a digital environment, they have become possible and regulation should keep up with technological developments.

At the very least, if there is a possibility that a price is personalised this should be made very prominent in comparison tools. However, consumers may not give due consideration to the notice of the risk of personalised offers, hence additional requirements are needed. This issue was highlighted in an OECD [Laboratory experiment on the effects of online disclosure about personalised pricing for consumers](#).

Since consumers do not like personalised pricing, a ban on personalised pricing, especially in essential services, such as energy, could be appropriate.

Rules on comparison tools should adopt a consumer welfare perspective. The starting point for overseeing such tools should be based on consumer protection, rather than promoting commercial interests. Furthermore, authorities cannot simply focus on the average consumer. They must also take into account vulnerable consumers.



Roundtable on Digital Comparison Tools in Customer Journeys (7-9 June 2021)



Partnership for the Enforcement of European Rights (PEER)