



Smart Data: Putting consumers in control of their data and enabling innovation

July 2019

1. INTRODUCTION

- 1.1. Fair By Design welcomes HM Government's invitation to comment on the Smart Data consultation.
- 1.2. Please note that we consent to public disclosure of this response.
- 1.3. For more information about this response please contact Martin Coppack, m.coppack@barrowcadbury.org.uk Tel: 0207 632 9060.

2. ABOUT FAIR BY DESIGN

- 2.1. Fair by Design is a movement dedicated to reshaping essential services, like energy, finance and insurance, so they don't cost more if you're poor.
- 2.2. People in poverty pay more for a range of products including energy, through standard variable tariffs; credit, through pay day loans; and insurance, through post codes considered higher risk. This is known as the Poverty Premium.
- 2.3. We collaborate with industry, government, and regulators to design out the Poverty Premium.
- 2.4. Our Venture Fund provides capital to help grow new and scalable ventures to innovate in the market.
- 2.5. Fair by Design was conceived by the Joseph Rowntree Foundation and Big Society Capital. The Campaign is led by the Barrow Cadbury Trust, and the Venture Fund is managed by Ascension Ventures.

RESPONSE TO SMART DATA: PUTTING CONSUMERS IN CONTROL OF THEIR DATA AND ENABLING INNOVATION

Enabling data driven innovation in consumer markets

1. Do you agree with the proposed objectives and expected benefits of Open Communications?

- 1.1. We agree that the Open Communications initiative could help mitigate against consumers paying a loyalty penalty for their broadband, telecoms and related services.
- 1.2. The loyalty penalty is a driver of the Poverty Premium – the extra costs incurred by low income consumers.
- 1.3. Not switching to the best fuel tariff or broadband deal is often due to being time poor or feeling less confident navigating complex markets – which can sometimes be linked to vulnerabilities such as poor mental health – however, as Andrew Tyrie, Chairman of the CMA, recognized, in his speech ‘Is competition enough’ at the Social Market Foundation, all consumers, regardless of income, can be time-poor, and therefore vulnerable to paying more.¹
- 1.4. The potential benefits of Smart Data are apparent in sectors other than communications, such as energy, where smart meter data could be used to signal when consumers are self-rationing in a way that is potentially very harmful, for instance at night in the winter, or identify patterns of self-disconnections i.e. when people are not simply forgetting to top up a prepayment meter. If spotted early, interventions could be made, for instance, to discuss affordability of bills. Firms could consider automatically switching their customers onto tariffs in line with the best available price and value.
- 1.5. However, ‘Smart Data’, implies more than just the availability of data, it also describes the mining, use, and identification of themes in that data. We therefore feel there is a need for Smart Data *understanding*, in addition to Smart Data.
- 1.6. It is important to address how data captured through meters (among other means) is used in ways that benefit consumers.

2. What is the most effective approach to implementation to ensure the success of Open Communications in enabling innovation and delivering the best consumer outcomes?

- 2.1. As with Open Banking, the government should seek to ensure a balance between convenience, speed and simplicity, with consumers’ need for control over their data, their desire for security and privacy, and the need for a marketplace that is not overly complex.²
- 2.2. The implementation of Open Communications should incorporate Inclusive/Universal design principles to:

¹ <http://www.smf.co.uk/andrew-tyrie-keynote/>

² <https://www.openbanking.org.uk/wp-content/uploads/Open-Banking-A-Consumer-Perspective.pdf>

- 2.2.1. guide an approach to understanding the needs of all consumers (through evidence, research and market analysis), to help set priorities, develop and implement interventions, and assess their effectiveness.
- 2.2.2. guide government's expectations of firms to embed consideration of low-income consumers when they design and deliver products and services.

3. Are there any further actions we should take to enable consumers to benefit from Smart Data in regulated markets?

- 3.1. As the government has acknowledged, the CMA noted that there could be potential benefits to consumers from Smart Data in other financial services markets such as household insurance.
- 3.2. However, there is a risk of Smart Data leading to unintended consequences that result in increased costs to low income consumers.
- 3.3. Increased use of Smart Data by insurance firms could result in greater price personalization and higher costs for low income consumers considered to be 'high risk.'
- 3.4. **Recommendation:** The government should consider whether there is sufficient transparency in how insurance premiums are calculated by firms, including weightings for different data points. As Nikita Aggarwal highlights, in relation to credit scoring, this is particularly pertinent in light of the increase of new forms of financial and non-financial data³ – so consumers have a clearer pathway to accessing appropriate products that produce positive consumer outcomes.
- 3.5. **Recommendation:** As the risk modelling of insurance firms is commercially sensitive and often private, the government should consider whether there could be a standard on how non-financial data can be used in calculating insurance premiums.
- 3.6. This would ensure the regulator is on the front foot in the future, when firms are relying on many more, and much more complex, types of data that often have a much less apparent relationship with risk assessment.
- 3.7. There are similar risks in the energy sector: meter data and smart data such as payment history, could lead to firms personalising 'lifestyle' tariffs that could result in low income consumers paying more, or in their exclusion from the market as firms cherry pick profitable customers.
- 3.8. **Recommendation:** It is therefore vital for the government to set standards around how smart data can be used by firms to offer consumers appropriate products to achieve good outcomes.
- 3.9. As noted in the consultation document, there are issues around access for vulnerable consumers. Elderly and low income households, for example, may be digitally excluded, with no internet access or smartphone. They may lack the ability to use the internet, or fear crime, or simply not know where to start online.
- 3.10. **Recommendation:** The government could look to the guidelines on power of attorney, developed by the UK Regulators' Network, which are for use by utility and

³ <https://www.law.ox.ac.uk/business-law-blog/blog/2019/07/big-data-and-obsolescence-consumer-credit-reports>

financial services firms, to review how they engage with customers who do not make their own decisions.⁴ These could inform guidelines on how charities and family members or carers can use Smart Data and digital tools to manage finances and utilities on behalf of a consumer.

4. We have chosen not to answer this question.
5. We have chosen not to answer this question.
6. **Do you agree that we should establish a cross-sector Smart Data Function with the proposed responsibilities set out above?**
 - 6.1. We support the establishment of a cross-sector Smart Data Function.
 - 6.2. As noted in the consultation document, there is precedent for cross-sector data sharing, with the Energy Networks' Association and Water UK joint working group, rolling out a data sharing scheme between all energy and water companies, of customers who are eligible for priority services,
 - 6.3. However, as per OFGEM's Chief Executive's evidence to the Public Accounts Committee, there is, because of data protection reasons, an inability to match a specific meter to whether or not someone is on benefits, for example.⁵
 - 6.4. We therefore agree with the conclusion that legislation is required to facilitate the sharing of financial data sharing.
7. **What would the best form for the Smart Data Function to take?**
 - 7.1. Our main consideration is that the Smart Data Function has the powers to effectively regulate good consumer outcomes.

8. We have chosen not to answer this question.

Using data and technology to help vulnerable consumers

9. **What other actions should could the Government or regulators take to support the use of data and innovative services to improve outcomes for vulnerable consumers?**
10. **Should we strengthen the powers of sector regulators to enable to use consumer data to improve their understanding of the challenges faced by vulnerable consumers?**
 - 10.1. As above, we believe that legislation is required to facilitate the sharing of financial data, to complement non-financial data sharing.
 - 10.2. In the utilities sectors, financial data could be combined with the datasets of Priority Services Registers, enabling firms to better understand the challenges faced by their consumers, and allow for better targeted interventions such as payment flexibility.

⁴ <https://www.fca.org.uk/news/news-stories/ukrn-encourages-policy-makers-power-attorney-guide>

⁵ <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/public-accounts-committee/consumer-protection/oral/102359.html>

11. How can we ensure that the Smart Data Function improves outcomes for vulnerable consumers? Do we need to consider any further actions?

- 11.1. We support placing vulnerable consumers at the heart of the Smart Data Function.
- 11.2. The Smart Data Function should incorporate Inclusive/Universal design principles to:
 - 11.2.1. guide an approach to understanding the needs of all consumers (through evidence, research and market analysis), to help set priorities, develop and implement interventions, and assess their effectiveness.
 - 11.2.2. guide government's expectations of firms to embed consideration of low-income consumers when they design and deliver products and services.
- 11.3. This would complement the Vulnerable Consumer Challenge, whose participants will also have engaged with people with lived experience.

Protecting Consumers and their data

12-15. We have chosen not to answer these questions.