

Communications Consumer Panel response to BIS consultation on midata

1. The Communications Consumer Panel (CCP) welcomes this opportunity to respond to the BIS consultation on midata, having been involved in the telecoms sector board convened by BIS to advise on the development of midata.
2. The CCP is an independent group of experts established under the Communications Act 2003. Its role is to provide advice to Ofcom to ensure that the interests of consumers, including small businesses, are central to regulatory decisions. The Panel also provides advice to Government and champions consumers' communications interests with industry. The Panel has members representing the interests of consumers in Scotland, Wales, Northern Ireland and England.
3. The Panel broadly welcomes the aims of the midata initiative to empower consumers further by providing access to information that will help individuals make better informed choices and decisions in respect of the goods and services they purchase and use. This also has the potential to stimulate competition in the market, and make that competition work for the benefit of consumers.
4. We note that the policy intent is for all businesses that currently collect consumption/transactional data on their customers and store it in an electronic format to allow those customers to download the data that relates to them in a machine readable and portable format. Ideally this is to be instantaneous and at no cost to the customer.
5. The Panel notes that the consultation makes particular reference to consumers' purchasing/consumption history and transactional data - we therefore presume that the midata initiative only applies to those situations where goods/service have been paid for rather than businesses who provide services without a direct charge but who may still collect data in relation to the activity but would welcome clarification of this issue.
6. The Panel notes that while ongoing costs to businesses for the provision of this data are likely to be marginal, there will be an initial setup cost. It should be noted that this is likely to affect SMEs disproportionately and, across the market, is a cost that is likely to be borne ultimately by consumers in some shape or form. In order for this not to be counter-productive, it is vital that the data provided to consumers is truly useful. One example of this in the energy sector might be where consumption is billed by two bands e.g. electricity by day and night rate. The data provided to the consumer must contain this level of detail if the consumer (or his/her agent) is to make an accurate comparison, rather than provide an amalgamated consumption figure across the two bands. The Panel would be interested to see more detail on how the needs and expectations of consumers (and businesses) can most closely be met.

7. Consumer awareness of the midata initiative will be vital if it is to have a meaningful impact. Businesses should be required to alert their customers to their right to request their data. The proposed standard format of information provided is important and, particularly in relation to the key information, might be especially useful for those with visual impairments. The system should also be as straightforward as possible for consumers to set up.
8. The Panel would support the further and deeper consideration of privacy and data security issues related to this initiative. Many consumers may choose to approach a third party to analyse their data on their behalf - indeed, this is an area for potential corporate growth. However, particularly given the likely involvement of third parties, consumers will need to be made aware of how valuable their data is to businesses and how it should be safeguarded. This applies not only to the transfer of the data file but also to the permissions granted to those who might analyse the data on the consumer's behalf. It is of note that recent research conducted by Ofcom has found that people's attitudes towards their online privacy, and their level of skills to protect their personal details, appear mixed. While there is high awareness of website terms and conditions / privacy statements, only one in four (24%) internet users say they read these thoroughly, with the same proportion (24%) saying they never read them¹.
9. The Panel's research [Online Personal Data: the Consumer Perspective](#) found that consumers also need to understand the benefits of sharing their personal data - for example that providing personal data can have significant benefits in the form of services and applications that are more tailored to their needs, or that they might otherwise have to pay for. Otherwise they will not be able to make an informed decision between, on the one hand, withholding their data and protecting their privacy, and on the other hand, sharing their data and receiving benefits. The research findings suggest that the decisions consumers make might be influenced by how direct they perceive the benefits to be. Only a small minority (13% or less) of respondents were always happy for the methods of data collection we asked about to be used for any reason. Levels of concern were lower if the personal information was being used by companies to develop new business and services (31% had a high level of concern) than if it was being sold to third parties for them to target the consumer with products/services (here, 79% had a high level of concern).
10. The Panel does have concerns about the provision of data about an account directly to a third party and would suggest that the data should only be provided to the individual concerned. It would then be up to individuals with whom they choose to share their data. It is also worth noting that, in a number of cases, the data which would be provided to an account holder will concern household consumption rather than that individual's alone.
11. In addition to addressing issues of privacy, confidentiality, security and data protection, the third party handling of data must also contain safeguards in relation to how that party utilises data. The Panel notes that while the midata research identified some appetite among consumers for access to data, there were significant concerns expressed about the handling of personal data. The Panel would strongly encourage the establishment of a dynamic accreditation scheme, a support function to respond to consumer queries and a robust system of redress.

¹ Media Use and Attitudes, Ofcom 2012 <http://stakeholders.ofcom.org.uk/market-data-research/media-literacy/archive/medlitpub/medlitpubrss/adults-media-use-attitudes/>

12. Consumers must also be able to assess the basis on which third parties have made their recommendations of suppliers of goods/services - i.e. whether their search has covered all the market, or just specific suppliers and the reasons why this occurs e.g. the existence of any commercial/financial agreements between the parties.
Transparency is key.
13. The Panel is very conscious that not all consumers are likely to be in a position to benefit from this initiative. Aside from those who choose not to access their data, as evidenced by the Panel's recent research [Bridging the Gap: Sustaining Online Engagement](#), there remains 22% of the UK adult population - eleven million people - who still do not use the internet at home - many of whom are older and in lower socio-economic group households. In these circumstances, the Panel cannot envisage how it will be possible to reduce consumer protection related regulation.
14. The Panel's work on [Behavioural Economics and Vulnerable Consumers](#) identified that vulnerable consumers - particularly low income consumers and, to a lesser degree, older consumers - are more likely to display the biases identified by behavioural economics. The Panel stressed that this more nuanced understanding of consumer behaviour must underpin the design of policy, and of regulatory and public policy interventions. These must reflect the way consumers actually behave, rather than assuming rationality or perfect access to information, and must take into account the behaviour and circumstances of different groups of consumers, particularly more vulnerable consumers. This is particularly the case when it comes to provision of information. There is evidence that across a range of markets, when faced with decisions that involve too many options or too much information consumers become less inclined to be active and more likely to make choices that may actually be to their detriment. The communications market is characterised by complex price structures and a multitude of choices. In many cases the suppliers' response to this is to ensure that consumers have access to information so they are able to make an informed choice that is in their best interests. Given this complexity, focusing on provision of information might not be the right approach for some groups of consumers.
15. We can however envisage potential benefits for vulnerable people in using information to secure better deals for services and hope that trusted third party services would aid those who struggle with comparison sites. We would also hope that organisations acting as advocates and offering support for vulnerable people would offer services using their data for their benefit.
16. There are also issues for people with physical disability, sensory impairment or learning disability who may have a range of problems in accessing data, manipulating it, securing it or assessing the trustworthiness of third parties seeking permission to request their data.
17. Businesses - particularly SMEs - must also be able to access clear and comprehensive information about their responsibilities, to avoid any potential 'chilling' effect on the provision of goods and services online, which ultimately would be to the detriment of consumers as well as the wider economy.
18. The Panel agrees that consumer requests for data should be responded to as soon as possible, and at no direct cost to the consumer. To delay or charge would place additional hurdles in the consumer's way and significantly detract from the attractiveness of the initiative.

In summary, the Panel supports the policy direction but would stress that the data made available to consumers must be:

- meaningful;
- ubiquitous;
- easy to access and understand;
- and free to the consumer.

The Panel has concerns about privacy and data security issues, which must be addressed if the initiative is to be trusted and widely used by consumers.

The Panel is also concerned about those consumers who may not use the internet; or do not necessarily respond to the availability of more information in a way that benefits them.