



2 Marylebone Road  
London NW1 4DF  
t 020 7770 7000  
f 020 7770 7600  
which.co.uk

## Consultation response: Centre for Data Ethics and Innovation (DCMS)

### **About Which?**

Which? is the largest consumer organisation in the UK with more than 1.3 million members and supporters. We operate as an independent, a-political, social enterprise working for all consumers. We are funded solely by our commercial ventures and receive no government money, public donations, or other fundraising income. Which?'s mission is to make individuals as powerful as the organisations they have to deal with in their daily lives, by empowering them to make informed decisions and by campaigning to make people's lives fairer, simpler and safer.

### **Summary**

1. The Centre should be set on a statutory footing as soon as possible and given information-gathering powers: This will ensure the Centre has the independence and access to the information it will need in order to ensure it can fulfil its objectives.
2. The Centre must ensure it both brings together research on the impacts of data use and communicates the evidence publicly: We do not believe that the ethics of an action can be judged without understanding its impacts, and currently there is too little understanding of the impacts of data use – both on society and for the individual. The Centre's objectives, Terms of Reference and proposed activities should all be more explicit about the need to build understanding of the impacts of data use through both collation and public dissemination.
3. The Centre should conduct a Review of the governance of data-in-motion urgently: Data-sharing is necessary for many of the goods and services consumers value, but our research has found a lack of knowledge of common practices and concerns that the system is not well enough controlled. We think that improving trust in the governance of the system will require changes to the architecture of data sharing, in addition to enforcement of existing regulations. We therefore think that a review of the governance of data in motion should be a priority for the Centre, including a review of potential innovative technological solutions.
4. The Centre should carry out a project on the digital advertising industry as a priority: Digital advertising is the primary manifestation of data use to consumers and the concentration of the digital advertising industry in Facebook and Google's hands has driven competitive behaviour across the digital advertising industry that our research suggests is undermining trust. 'People-based marketing' has become a feature of the digital advertising market, but its impact and consequences are widespread and poorly understood, and people feel powerless to understand or escape the growing commercial observations.

## Detailed response

We welcome the establishment of the new Centre for Data Ethics and Innovation and the opportunity to shape it through this consultation and engagement with the Department and the new Chair and Board of the Centre.

Digitisation is remodelling consumer markets, and the use of data about our consumer lives has already brought huge benefits and great potential for empowerment. We have recently conducted extensive consumer research into attitudes and behaviour with respect to data and our [Control, Alt or Delete? report](#) found that although people recognise the wide range of benefits they can get from use of their data, many people also feel powerless to understand the growing commercial observations or the effect that accelerating data collection is having on their lives.

There are a broad range of fast evolving challenges and problems that come from data use and the Centre will have a crucial role to play in making sure that people understand and trust data-enabled technologies. We see enormous potential to empower consumers through the use of both personal data and other forms of data and are concerned that this potential could be stifled if people do not feel the system is acting in their interests.

We therefore think it is very important that the Centre is placed on a statutory footing as soon as Parliamentary time can be found. The Centre must be able to operate independently from Government, and a statutory footing will ensure that it can provide impartial, evidence based, assessments of the impacts of the use of data. The Centre should also be given information gathering powers as part of legislation to underpin its operation so that it can effectively understand the impacts of data use.

It is also important that the Centre does not treat the digital world as different from the offline world; we agree with the digital charter that the same rights people have offline must be protected online. In particular this means that the Centre should work closely with the Department for Business, Energy and Industrial Strategy on consumer issues.

Our report had three recommendations, all of which have implications for the work of the Centre:

- 1. Consumers and their advocates need more transparency about the impact that personal data has on their lives.** Our research found that consumers usually judge the acceptability of data collection and use by what impact it has on their lives, as opposed to information about the collection and purpose. Government, regulators, businesses and consumer advocates must come together to understand the impacts of data usage, and the Centre can play a crucial coordination role here. We think that there should be an explicit recognition in the Centre's objectives, Terms of Reference and activities of the importance of disseminating knowledge about the impact of data use. In particular:
  - The objectives of the centre should include a key objective to build understanding of the impacts of data use on society and on individuals, which should include the collation and dissemination of knowledge on the impacts. The current objectives include wording on the understanding of the implications, but are not clear enough on the importance of building an understanding amongst Government, regulators, civil society and the broader public about the impacts of data use.

- The Terms of Reference and the activities listed in table 3.4 should be explicit that the Centre should seek to build understanding of the impacts of data use; particularly in the section on analysing and anticipating.
- Our research finding also has an important implication for the Centre's proposed area of focus on transparency. We agree that transparency is important, but it must be transparency in context for people. Consumers want to understand the impact of data use on their lives when it is occurring (for example, when they receive an insurance quote or credit decision), as opposed to in more general ways.
- Consumers' desire to understand the impacts on their lives is particularly important where that impact might be to exclude them from access to products or change the prices they see. We think the Centre should conduct work on credit reference agencies and the insurance industry to understand how the use of data affects consumers in these sectors.

2. **We recommend a thorough review of the governance of data in motion, with due attention given to creative ways to provide improve oversight and enforcement:**

Our research found that consumers recognise and value the greater convenience and choice that data-dependent technologies have brought them, but also that the majority (81%) of the population are concerned about organisations selling even anonymised data to third parties and many people told us that they want to see more control of the digital ecosystem. We do not think this can simply be solved by more regulation; we think that improving trust in the governance of the system will require changes to the architecture of data sharing alongside strong enforcement of existing rules. We therefore think that a review of the governance of data in motion should be a priority for the Centre. The review should consider the forefront of technological solutions and include the following:

- Measures to foster more seller due diligence on the buyers of data, so that brokers cannot sell data without satisfying more strenuous conditions on its onward use.
- Stronger measures to ensure platform accountability for third-party access to data via APIs.
- The potential solutions to be found in the nascent market of personal identity and data management providers to give truly decentralised and scalable accountability for how data flows, and whether interventions are required to enable these innovations to achieve full potential benefit for consumers.

3. **The Competition and Markets Authority (CMA) should conduct a market study in to the digital advertising industry as a matter of urgency.**

Whilst this is primarily a recommendation for the CMA, we think that our findings should also guide the first priority areas for the Centre. 'People-based marketing' has become a feature of the digital advertising market, but its impact and consequences are widespread and poorly understood. Digital advertising is the primary manifestation of data use to consumers and the concentration of the digital advertising industry in Facebook and Google's hands has driven competitive behaviour across the digital advertising industry that our research suggests is undermining trust. People feel powerless to understand or escape the growing commercial observations that are a feature of this system. We agree the centre must carefully prioritise it's work, and from the point of view of urgency and the need to build trust in the data ecosystem we think that the initial priorities for the Centre should include the digital advertising ecosystem,

including data brokers. The Centre should aim to understand the impact of the digital advertising system, how the data is used and how to improve transparency to individuals. It should also consider the effect of use of algorithms in targeting advertising; although digital advertisers often ban targeting on the basis of sensitive characteristics, how can we be sure that algorithms do not find correlated characteristics? This is another reason why the *impacts* of data use must be monitored.

## **Answers to consultation questions**

### **Q1 Do you agree with the proposed role and objectives for the Centre?**

Yes, with the exception of thinking that the Centre's objective, Terms of Reference and proposed activities should all be more explicit about the need to build understanding of the impacts of data use through collating and disseminating knowledge.

### **Q2 How best can the Centre work with other institutions to ensure safe and ethical innovation in the use of data and AI? Which specific organisations or initiatives should it engage with?**

It is crucial that the Centre engage with those affected by the use of data and AI and use this as their locus to determine what is ethical; the Centre should ensure it has a strong grounding in the experience of people when they are consumers, public service users or other end-users. Ultimately the digital economy can only thrive if the public feel it is operating in their interests.

The Centre should also ensure that it engages with consumer groups, and does so at the same time as engagement with businesses and others to ensure mutual understanding. Although the Centre is not a regulator, it may be useful to refer to the National Consumer Federation's [Consumer Charter for Regulators](#) for principles to ensure the consumer perspective is at the heart of the Centre's work.

### **Q3 What activities should the Centre undertake? Do you agree with the types of activities proposed?**

Yes, with the inclusion of a specific activity to disseminate knowledge about the impacts of data use on society and on individuals.

### **Q4 Do you agree with the proposed areas and themes for the Centre to focus on? Within these or additional areas, where can the Centre add the most value?**

Yes, and we think that targeting is a particularly important area to start with as the impacts of personal targeting based on data about individuals are poorly understood.

### **Q5 What priority projects should the Centre aim to deliver in its first two years, according to the criteria set out above?**

There are many areas the Centre could look at but we agree that it needs to consider areas that are urgent and can build trust in the use of data and AI. To this end we think that the Centre should conduct work on:

- A review of the governance of data in motion, with due attention given to creative ways to provide improve oversight and enforcement
- Digital advertising including data brokers



- Credit reference agencies and the insurance industry

**Q6 Do you agree the Centre should be placed on a statutory footing? What statutory powers does the Centre need?**

Yes, the Centre should be placed on a statutory footing as soon as possible, and given information gathering powers.

**Q7 In what ways can the Centre most effectively engage stakeholders, experts and the public? What specific mechanisms and tools should it use to maximise the breadth of input it secures in formulating its actions and advice?**

The Centre must find ways to ensure its recommendations are grounded in the reality of the everyday experience of citizens and the way that people use technology. It is important that the Centre hears from representative organisations such as ourselves, including using our primary research such as that published alongside *Control, Alt or Delete?*. However the Centre should also find ways to incorporate real people's experience. Deliberative approaches to research can be powerful; if they are used we would recommend ensuring the involvement of subject experts who can explain what is happening to a wide range of the public, and presenting different points of view.

**Q8 How should the Centre deliver its recommendations to government? Should the Centre make its activities and recommendations public?**

The Centre should proceed on the basis of transparency and openness, as there is little way to envisage how the Centre can build trust without doing so. This should include considering making some of its board meetings open to the public and publishing minutes of any meetings that are not held in public.

James Edgar  
[james.edgar@which.co.uk](mailto:james.edgar@which.co.uk)