



MRS Policy Unit

Submission to CMA Call for Information –The commercial use of consumer data

Introduction: About MRS and the research market

1. The Market Research Society (MRS) is the world's largest research association. It's for everyone with professional equity in market, social and opinion research and in business intelligence, market analysis, customer insight and consultancy. MRS supports best practice by setting and enforcing industry standards.
2. The UK is the second largest research market in the world (second to the US) and the UK research sector is recognised as leading the way in the development of creative and innovative research approaches. According to the Office for National Statistics' (ONS) Annual Business Survey¹ it is estimated that the total UK turnover of the 3,143 enterprises involved in market research and opinion polling to be £3,401 million in 2010. Further in 2012, MRS with PWC undertook an assessment of the size and impact of the UK research and evidence market, producing the MRS report *The Business of Evidence*². One of the main findings from this report is the that the UK 'business of evidence' market is substantially larger than previously estimated, employing up to 59,000 people and generating £3billion in annual gross value added (GVA).

About this response

3. We have taken into account the terms of reference as well as the questions posed in the Call for Information. As we note that data collected for academic and research purposes is not the focal point of the call for information we thought it would be useful to focus our comments around questions 12 and 13 on the policy implications of the commercial use of consumer data and possible future legal and regulatory developments. In light of this our response highlights the overlap between the use of personal consumer data for research and for other commercial purposes addressing:
 - a. the significance of the role to be played by self-regulation and trust marks in building consumer trust in organisations use of data.

¹ Office of National Statistics (ONS), (2011) Annual Business Survey. Standard Industrial Classification (SIC) 73.2: Market research and opinion polling.

² See www.mrs.org.uk/pdf/The_Business_of_Evidence_Final_08102012.pdf for a copy of the full report.



- b. the importance of the use of personal data for research together with the need to ensure the provenance of personal data so that information is obtained appropriately in line with principles in the Data Protection Act 1998.
 - c. the need for a consistent and joined-up overall approach to enforcement by consumer, markets, economic and privacy regulators in order to build and promote consumer trust in the collection and use of data.
4. We confirm that no parts of the response are confidential and that the information may be attributed to MRS.

Q.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?

- 12.1 Organisations, public, private and not-for-profit, still need to understand the nuances of consumer privacy preferences as it applies to their particular market and organisation in order for them to properly determine the right balance between disclosure, privacy and use of personal data. With the rise of the data economy, privacy has rightly and rapidly moved from backroom compliance to the boardroom, recognised as a complex and nuanced issue requiring a subtle understanding of the ways in which consumers and organisations interact.
- 12.2 Consumer trust underpins the ability of firms to collect and use consumer data in innovative ways. A 2014 report from the Global Research Business Network on attitudes to personal and sensitive data revealed that, on average, almost a third (31%) of UK and US citizens do not trust their domestic government with their personal data.³ The report, based on a survey of over 2000 individuals, also highlighted consumer distrust in internet search engines, social media companies and mobile phone operators revealing that consumers have low levels of trust in many types of organisations.
- 12.3 Consumers need to be satisfied that transparent and robust steps are being taken to use data in accordance with their individual preferences. Some

³ GRBN Trust & Personal Data Survey (2014) <http://grbn.org/initiatives/index.php?pid=35>



consumers may be happy to give up some information in order to receive a service but other consumers may prefer to more carefully control the amount of data that is collected. New mechanisms which seek to target and personalise consumer data will be based on consumer trust. For example the emergence of next generation intermediary services that allow consumer “decision-support services” which make it convenient for consumers to access and use the information they need to make better purchasing decisions relies on consumer trust in the use of data by the providers. We believe self-regulatory and trust frameworks such as the MRS Code of Conduct and the MRS Fair Data Scheme, that ensure that organisations take their obligations seriously and use data in a fair and transparent manner, are a useful tool in building consumer trust across markets.

- 12.4 Company partner members of MRS, have signed up to a clear ethical framework through the MRS Code of Practice, that clearly sets out how these organisations will collect and use personal data of consumers and in doing so they have taken a key step in facilitating consumer awareness about data collection and use. Accredited members include research suppliers such as Ipsos Mori, BDRC Continental, DJS Research Ltd, Family Kids and Youth and membership covers full service agencies, data processing companies, and other research support services of all sizes. Numerous client-side organisations including companies such as Which?, ITV, Asda Stores Ltd and Cancer Research are also accredited MRS members.
- 12.5 The MRS adopted its first self-regulatory Code in 1954 and the latest fully revised version of the MRS Code of Conduct came into effect on 1 September 2014. The Code is designed to support those engaged in market research in maintaining professional standards and to reassure the general public that research is carried out in a professional and ethical manner. The commitment of member firms to uphold the MRS Code of Conduct is supported by the free and confidential advisory Codeline service and a wide range of specialist guidelines.
- 12.6 MRS individual members and Company Partners must comply with the Code which applies, whether they are engaged in consumer, business to business, social, opinion or any other type of research project. Consumers are also able to check whether researchers or their organisations are members of the MRS



and as a result be more confident that their data will be treated appropriately. Measures such as these ensure that both firms and consumers can benefit from the use of data.

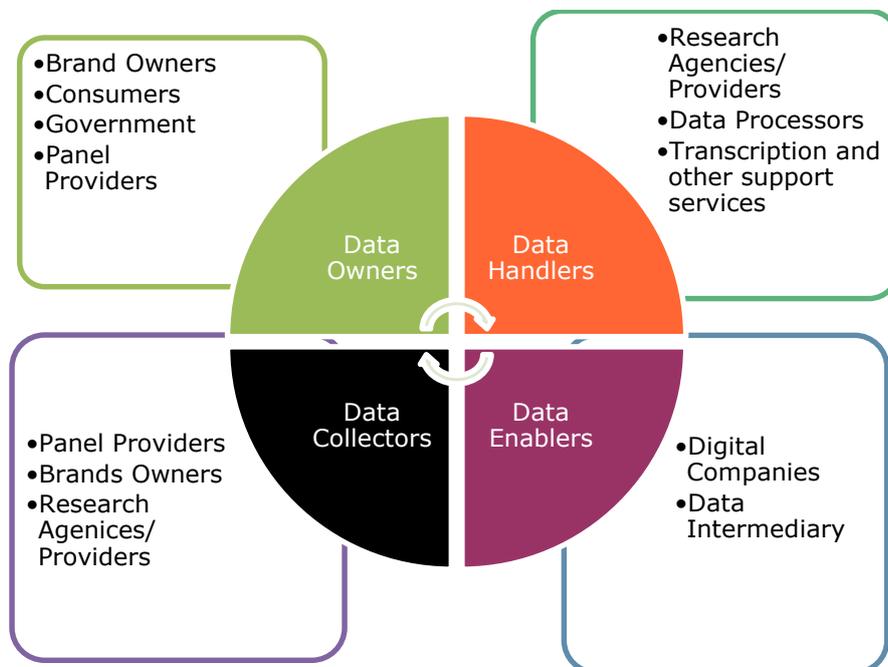
- 12.7 The MRS Code is technology and methodology neutral. It sets out overarching ethical principles supported by rules of conduct. Transparency and consent are key principles of the MRS Code and member obligations include ensuring that there is voluntary informed consent by participants and transparency on the subject and purpose of data collection. Specific rules are also in place to ensure greater protection in collecting data from children. We consider that these critical principles need to underpin and govern collection and use of consumer data across all markets.
- 12.8 Additionally, a broader range of firms have signed up for the MRS Fair Data mark, which was established in 2012 to complement the self-regulatory arrangements under the Code. This trust mark, designed for use by consumer-facing firms, suppliers of research and data services, and public bodies, presently has over 30 organisations signed up. Fair Data launch partners included a range of organisations such as Research Now, Gfk, pwc and mydex.
- 12.9 Fair Data enables consumers and citizens to make educated choices about their data and to identify organisations which they can safely interact with, knowing that their personal information is safe. For organisations that are accredited, it demonstrates a commitment to be ethical, transparent and responsible with data.
- 12.10 Organisations sign up to ten clear principles that are consumer focused, enabling ease of understanding. These ten core principles of Fair Data work in tandem with the MRS Code of Conduct. The scheme is supplemented by MRS's Fair Data advisory service which includes face-to-face, telephone and e-mail support plus events on best practice, best practice guidance and a bespoke audit accreditation process which is mandatory for all organisations that are not MRS Company Partner accredited.
- 12.11 We believe data privacy, compliance and ultimately building consumer trust, are critical. If the public become more afraid of sharing their personal data, the effect could have long term implications for research participation, development

of innovative commercial solutions and society. Credible, robust self-regulation and trust marks will be key tools in raising awareness about the collection and use of data and assist both firms and consumers in benefitting from its use.

Q. 13 What potential competition, legal or regulatory changes might help to ensure or enhance the benefits for consumers and firms from the commercial use of consumer data?

Focus on provenance of data in a complex data cycle

13.1 The nature in which data is collected, handled, managed, stored and utilised is complex. Organisations may have no data ownership or limited influence on how data is managed either within their own organisation or their clients and suppliers. As consumer data is often aggregated, bought and sold, the licensing, commercial use and responsible re-use of consumer data by different companies means that care must be taken to ensure the provenance of the data. An illustration of the complexity of the data landscape in the research sector is as follows:



13.2 We are working with the Information Commissioner’s Office (ICO) to assist in developing a greater understanding of the data cycle and the many steps that the



data can go through. However it is important to note that the MRS Code of Conduct already covers this by requiring practitioners and research organisations, under Rule 17 of the revised MRS Code, to have a fair and lawful basis for the collection and processing of personal data from sources other than the data subject themselves. This is an illustration of how self-regulation can work with legislators and regulators to improve market standards.

Continued compatibility of purpose in the use and re-use of personal data for research purposes

- 13.3 Under the current data protection framework, principle 2 of the Data Protection Act (DPA) provides that “Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.” Guidance from the ICO has confirmed that further processing of personal data for research purposes is a logical extension of the initial collection of the data and is not an incompatible purpose particularly where the consumer has used products or services that are the subject of the research it is not unreasonable to ask them what they thought of the product or service.⁴ It is important that this position that confirms the compatibility of the use and re-use of personal consumer data for research purpose continues.
- 13.4 Naturally, the likely legal and regulatory framework will be considered and re-considered in the context of the pending reform through the EU Data Protection Regulation which aims to enshrine privacy by design and default. Once the final position is agreed, after trilogue between the Commission, the Council and the Parliament, the extent of any changes required in the privacy landscape will be clearer. It is important that activities of the research sector is supported in the negotiations on the EU General Data Protection Regulation. Importantly, the compatibility of the use and re-use of consumer data for research purposes needs to continue in its current form in order to ensure that evidence based research and insight continues to inform public policy and commercial decisions. However if the current carve out for research is adopted, then secondary legislation will need to be

⁴ MRS/ICO (May 2002)



implemented and this will need to be done swiftly and supportively for research in order for the UK sector to continue to flourish.

Recognition of the synergies in enforcement by market, economic and privacy regulators

- 13.5 A key element of policing the consent and the fair use of personal data is better communication and information sharing between regulators, professional associations, consumer advocacy bodies and other stakeholders on evolving consumer issues and enforcement priorities. The use of the Data Protection Act 1998 together with other consumer legislation can improve consumer rights and protections.
- 13.6 We note that the CMA is not currently focusing on concerns relating to privacy and data protection in light of the central role of the ICO in this area. However we think it is important that these issues are tackled in a cohesive manner between the CMA, Ofcom and the ICO, rather than in enforcement silos. This will ensure that the most appropriate tool is used to address any structural market or consumer detriment issues. We recognise that the CMA has done some preliminary thinking on this and we would encourage the CMA to act together with other regulators as appropriate, using its own toolkit, in order to ensure cohesiveness in enforcement. Targeted and effective enforcement builds consumer trust which is the key underlying principle essential for delivering benefits of data driven benefits to consumers, based on responsible and ethical use of personal data.

For further information or clarification on this submission please contact Michelle Goddard, Director of Policy and Standards, (michelle.goddard@mrs.org.uk 020-7566-1882).

This submission is made on behalf of The Market Research Society, 15 Northburgh Street, London EC1V 0JR. The Market Research Society is a company limited by guarantee, registered in England No. 518685.

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