

Name and title under which you would like this response to appear:

Anonymous 182

Representing:

Self

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Yes

I confirm that I have read the declaration:

Yes

Ofcom should only publish this response after the consultation has ended:

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Question 1: To what extent do you consider that DTT, DSat, cable and IPTV are in competition with one another for subscribers of pay TV services ? either at present or in the future?:

As the cable, dsat and IPTV services all have relatively high capacities those platforms are all in direct competition with one another, although the IPTV platform in particular has the additional flexibility to offer more niche programming than both satellite and cable. Furthermore both IPTV and cable have the capability to offer VOD programming - especially suitable for films and niche programming.

DTTV on the other hand is more suitable in competing for the middle ground of the TV market, appealing to as many people as possible.

Question 2: To what extent do you consider the Proposal is likely to deliver benefits to the consumer?:

Very little if any at all.

Having three pay tv operators on the DTTV platform (Top Up TV, Setanta, and BSkyB) only serves to reduce any remaining benefits.

Question 3: To what extent do you consider that there is scope for sustainable competition in pay TV on the DTT platform and, more broadly, across all pay TV platforms?:

While more competition in the pay tv market would be welcome, having the only platform with two mainstream players being the same platform as that with the least amount of capacity does create an environment for unsustainable competition.

Question 4: What are likely to be the key aspects of competition between providers of retail pay TV services on the DTT platform? E.g. what is the role of premium sports and movies content?:

While premium content such as Sports and Films would be a welcome addition in those homes who can't or don't want satellite or cable television this should not be at the expense of reducing the competition on the primary television platform in the UK for years to come.

However due to the capacity constraints on the DTTV platform (which post DSO in the Granada region will have less capacity available to it than at present due to the loss of multiplex B) will mean that only a basic offering could ever be made available - meaning many premium sports fixtures and films could not be shown on the platform, leaving it as only a promotion for Sky TV's satellite offerings.

Question 5: Do you consider that if Sky were to become the only provider of pay TV on the DTT platform it would be likely to have a significant detrimental effect on competition in the long term? How might this affect the development of other platforms for the delivery of pay TV services?:

If Sky were to launch 'Picnic' it would have an adverse effect on competition, both pay and free, on the digital terrestrial platform.

Firstly the closure of the FTA Sky News would have a negative impact on the FTA news and current affairs offering by leaving only one news service on the platform,

Secondly, operating a successful service would put further pressure on the remaining capacity potentially pricing other FTA services out of the market.

Question 6: To what extent, if at all, do you consider that the Proposal would be likely to lead to any of the public policy concerns outlined at Section 4?:

I feel that allowing BSkyB to launch the proposed service on the DTTV platform would be detrimental to the DSO process, primarily by adding to consumer confusion.

Additionally, with the planned loss of Multiplex B to HD television some of the existing services on Multiplex 2 (most likely 1 service from each of ITV and Channel 4) will need to find capacity elsewhere, undoubtedly this will have to be the current

Multiplex C and D, combined with 'Picnic' these would further increase the demand for the limited capacity on those multiplexes and pricing none BBC/ITV/Channel4/Five services out of the FTA market.

The recently launched services from Virgin Media (namely Dave and Virgin 1) have highlighted the demands currently placed on capacity - the reduction in hours on UK History and limited hours on Virgin 1 reducing the impact the only real competitor to the established "analogue" broadcasters can have.

Question 7: Specifically, to what extent do you consider that the Proposal would be likely to lead to consumer confusion?:

When considering the switch to digital tv at present the citizen consumer already has numerous choices to make once they have decided to go down the digital terrestrial route.

i.e.

1. TV or STB?
2. PVR, DVD-Recorder, VCR, or Converter (i.e. STB)?
3. Do I want Setanta?
4. Do I want to access pay tv?

The addition of BSkyB's proposed service to this mix will further add to that burden of choice by requiring the consumer to choose between an STB that can get Picnic, or Top Up TV, or Setanta, or a combination of the three.

Question 8: To what extent do you consider that it is beneficial for consumers to be able to obtain Sky and existing DTT pay TV content without having to purchase separate STBs?:

If Sky were to be permitted to broadcast on the DTTV platform a pay television service then this MUST be compatible with all* existing (pay tv compatible) STB and IDTV's. Furthermore all the operators should utilise the same encryption methods and allow a single viewing card to access all services on digital terrestrial, meaning those that those who wish to receive services from all three operators can do so without swapping viewing cards.

If Sky wish to use MPEG 4 compression then MPEG4 CAM's, as used in France for Télévision Numérique Terrestre, should be made available from launch as a licence condition. This would allow all existing STB and IDTV with CI slots the ability to receive Picnic services. Any such CAM should also be able to decode encrypted MPEG2 services (allowing a single card to decode all services for which a subscription has been paid - this is especially important on those STB which only have a single CI slot and no on-board CA).

* Legacy STB such as those supplied by On/ITV Digital and any other which can not receive Setanta Sports should be ignored.

Question 9: Do you consider that the Proposal might lead to any additional public policy concerns:

No

Question 10: If Sky becoming the only provider of pay TV services on the DTT platform were likely to have a significant detrimental effect on competition, do you consider that it is possible to address this through a set of additional conditions and/or directions? If so, what form should those conditions/directions take?:

If Sky was to become the only multi-channel operator of Pay TV services on the digital terrestrial platform (i.e. if Sky were to acquire Top Up TV) then the detrimental effects on competition could be reduced by allowing Sky (and any services offered as part of its subscription service) from occupying no more than 20% of the available SD capacity (i.e. 1 of the 5 multiplexes earmarked for SD TV post 2009/DSO). Sky should also be prohibited from targeted marketing - by letter, phone call, or email, - its satellite television services to any customer it has on the digital terrestrial platform, at least until such a time as any such customer is six months out of contract.

In the event Sky were to bid for and win some of the freed up analogue TV capacity and use it to build themselves a broadcast television network - their allowed usage of COM3-COM6 should be reduced to 10% within 12 months of (non test) broadcasts outside COM3-COM6 commencing.

If after launch Sky are given approval to adopt MPEG4 then they should be required to supply free replacement STB (on a like for like basis) or CAM replacement to all current subscribers who subscribed to its service in the 12 months prior to the switch (requiring them to commit to a further 12 months in exchange for the free equipment would be acceptable).

Additional comments:

None