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

Anonymous 187

Representing:

Self

What do you want Ofcom to keep confidential?:

Keep name/contact details/job title confidential

If you want part of your response kept confidential, which parts?:

Ofcom may publish a response summary:

Yes

I confirm that I have read the declaration:

Yes

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

You may publish my response on receipt

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?:

I do not believe that at the moment Ofcom, the government and it's predecessor have even nearly come close to creating a proper market for cross competition in these areas.

The only way such a market could have been developed successfully is for there to have been legal prohibition on the cross ownership of media providers and access providers with the exception of public service provision.

So no, at the moment the market is rediculously broken, and the high costs of entry combined with one near monopoly provider should have never been allowed to occour.

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

I believe the proposal could deliver benefits to the customer, but ONLY if with a high level of regulation beyond that currently suggested.

The alternative is to further strengthen Sky's near monopoly position that is demonstrably bad for consumers.

However, subject to adequate safeguards, this proposal could deliver increased platform choice to the consumer, and indeed deliver the capability to purchase some Sky content without being forced into channels they do not wish to purchase. Ideally this would take the tack of Ofcom forcing Sky to offer each channel individually without any bundle subscription, which would in turn damage their anti-competitive behaviour on the satellite platform. Quite why Sky are willing to go ahead on a basis of damaging their position is puzzling, but Ofcom should not squander such a mistake by them.

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?:

I believe the scope for competition in channels is extremely limited on the DTT platform, but there is some.The easiest way to ensure such competition can happen more effectively is to prohibit subscription channel bundling. This should equally apply to any other subscription service on DTT.

At the moment the biggest source of successful competition which has delivered real consumer benefit is in the provision of equipment used to receive DTT. This is why it is essential that Ofcom puts sufficient conditions on this proposal that this market is not damaged. Hence Sky must be prevented from manufacturing their own boxes, or using any form of conditional access scheme unless it is licenced to any box maker that wishes to use it for a reasonable fee so such a level of competition can be maintained. This control must effectively be taken out of Sky's hands.

In addition, it must not be allowed for Sky to be in any kind of situation where the only provider of equipment such as PVRs that work with their channels, encryption or segment of the EPG is Sky itself, who can then enforce anti-competitive terms such as those they already use with Sky+ boxes (such as requiring subscription to watch programmes already recorded or no output to digital boxes that any other PVR manufacturer would use). The market should provide for this in and of itself providing Ofcom does not allow Sky to control the encryption or creation of access equipment as it is allowed to on the satellite platform.

If this cannot be done the proposal should be rejected in it's entirety as it will have extremely negative effects on the market provision for services.

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?:

I doubt movies will have a much of an impact - competition in this market from download services and DVDs have rendered it largely irrelevant, as Sky's falling revenue in this matter demonstrates. Sport is a different matter, and is key to the nation's development. However, the providers should not be able to compete on buying up events exclusively but on their quality of coverage, and hence bundling together of other channels to get the sports should be discouraged heavily to give a more effective market that will operate in the customers interests.

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?:

I believe it would have a signficant detrimental effect on the competition in the medium term - in the long term I suspect with IPTV Sky and Ofcom itself are both irrevocably doomed in an era where programming is piped on demand from different continents en masse. As there is no uniform competition between methods of delivery in the pay TV market - not all areas have cable, or are able to fit satellite dishes - it is vital for Sky to be prevented from having a pay TV monopoly on the DTT platform as it is the only one with a chance of nigh universal coverage.

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?:

Yes, the way in which the set top boxes will be licenced is vital beyond words, and by far the most important element of this. It is scandalous that Sky have been allowed to get away with not opening up their encryption so other manufacturers on the satellite platform, and this must not be allowed to happen again.

In addition, Sky's advertising for the proposed must be monitored much more closely than has previously been the case to ensure that no confusion is made with Freeview in the minds of the public.

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

I do not believe the amount of consumer confusion caused would be significant, providing Sky were obligated to point out in their advertising that free channels were available without subscription and prevented from the misleading impression they have often attempted in their satellite service advertising that digital switchoff necessitates a subscription.

This will require Ofcom to actually regulate.

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?:

It is obviously beneficial for consumers to not have to purchase separate set top boxes as no extra fee is required. However, I do not believe that this should hold Ofcom back - as long as the Freeview proposition on DTT is not allowed to be erroded further existing set top boxes will still provide the service they were bought for. The most important consideration in this is to ensure that any equipment used uses openly implementable standards that any manufacturer can use to create competing boxes for accessing the same services.

This will, for example, prevent Sky from launching a PVR box that is only operational while people continue to subscribe and at a time of their choosing. If the encryption standard has to be licenced to any manufacturer that wants it other companies can create PVRs that operate as the Freeview Playback branded ones currently do, and record the Sky Picnic channels.

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?:

A) that Sky's advertising is carefully vetted to avoid any misleading impression being given that their service is replacing "Freeview"
B) that their control over branding further PPV services is tightly regulated, preferably to the extent that they are not allowed to bundle channels or offer other companies channels at all.
C) that they do not use mpeg-4 while the rest of the platform uses mpeg-2
D) that they are not allowed to be the sole arbiter of who manufactures boxes compatible with their service (this is particularily vital). This will involve either their CAM being made available on a non exclusive basis to any other manufacturer who wishes to include it or ideally based on open standards anyone can execute. If it is not the case I would be able to buy a PC card that would enable me to record broadcasts without any payment being made to Sky to watch them, the service should be prevented from launching. This will have to be legally mandated, and not just left to Sky's good faith.
E) That Ofcom formally stakes out a significant percentage of the Mux allocation that currently exists and states that pay television will not be allowed on it before digital switchover at all.

Additional comments: