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

Anonymous 71

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?:

Sky and cable are in direct competition. Providers such as Top-Up and Setanta (direct) provide choice for viewers who desire a small pay-TV package. The issue here is that the proposed service will remove capacity from the non-payTV service Freeview, using Mux C capacity that was part of the original Freeview specification.

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

There are very limited potential benefits to the consumer. The proposed channels are available on Sky Digital by satellite. This proposal would reduce choice as it reduces Freeview capacity on DTT.

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?:

There is full scope. When Top-Up TV established itself (in its previous linear form) it made use of broadcast capacity on Mux A owned by Five which was not in use. It was unused space and not part of the Freeview specification. Using such space - or new space as it comes available - is a fully sustainable way to offer pay TV on DTT. Removing Freeview Mux C capacity is a different matter.

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?:

n/a

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?:

Yes. Having a choice of mainstream pay TV of Sky (DTT), Sky (DSat), Virgin Media (DCable) is an obvious restriction on consumer choice. A key issue is that Sky is sufficiently dominant that should this situation arise, it is unlikely in my view that any further pay TV would survive on DTT. This is for multiple reasons:
i) Sky would be likely to discourage its channels or channel providers on DSat from providing channels/programmes to alternative providers using financial incentives if necessary
ii) Sky would be likely to encourage existing Freeview services to switch to pay-DTT via the Sky service. ** If Ofcom allows Freeview capacity to become pay capacity in this way there would be no grounds to restrict this in future. **
iii) Sky would likely use its financial muscle (and stakeholding in ITV and thus Mux A and Mux 2) to buy up future DTT capacity.

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 do not have concerns about the brandname 'Freeview'. I am in no way against pay-TV on DTT itself, and the consumer should be able to distinguish between Freeview (a service) and DTT (a platform). I also do not have concerns regarding equipment and foresee a move to MPEG4 in the long term in any case.

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

This needs not be case with successful marketing (at which Sky is adept!)

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?:

No benefit whatsoever. Sky Satellite customers are extremely unlikely to be interested in Sky DTT. This service would simply restrict competition on DTT (through Q5 above).

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

This survey has not addressed the fact that the proposed service is to use Mux C capacity which was part of the original Freeview specification. This should not be allowed. Further, if Ofcom allows this Freeview capacity to be turned into pay-TV capacity it would have no scope to prevent this in the future.

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?:

No, I do not. Ofcom has been historically weak in this area and I do not see the scope for Ofcom to be able to 'deal' with Sky if this plan were to go ahead.

Additional comments:

This proposal should be rejected.