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

Anonymous 86

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:

Yes

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?:

Very much so. As Ofcom notes, there is one retailer who becomes dominant on any given pay TV platform. It is not feasible to have two retailers on the same platform due to the confusion caused to the consumer, and - ultimately - additional cost where a customer wants channels from both retailers, either in cost of two separate subscriptions or additional hardware to decode these.

Competition between platforms keeps innovation up as the technical capabilities are stretched, giving more benefit to the consumer.

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

Very little. Sky's satellite platform covers the majority of the UK, and there are very few people who are unable to receive this. Anybody who is interested in subscribing to Sky's premium channels would have done so already via satellite or cable, where the full bouquet of channels is available.

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 little scope for sustainable competition in pay TV on the DTT platform. Due to the limited bandwidth available, any one retailer can only provide a handful of channels. Sky's proposal to use a new STB means that anybody wanting to subscribe to TUTV+Setanta and Picnic will need two boxes and two subscriptions for a total of five ~24 hour video streams plus 3 streams of overnight downloads. This does not appear to be in the best interests of the consumer from either a cost or simplicity point of view.

It is far better that the pay TV retailers compete on their own platforms so there is one retailer (or set of standards so subscribing to multiple services is easy) on each platform, and attempt to stretch the technical abilities of those platforms to the full.

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?:

The main competition aspect will be content.

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 became the only provider of pay TV on DTT this would have a catastrophic effect on DTT in the long term. Sky already run a pay TV service on satellite which covers 99% of the country. Multiplex C after DSO will cover over 90% of the country. This would give Sky a monopoly over pay TV services in the UK - their only competition would be from cable (55% coverage) and IPTV - and the BT Vision service is coupled with DTT so Sky being available by broadcast would have a knock-on effect to this.

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?:

It is well reported that Sky see Freeview as a threat to their pay TV business, and are likely to use their new Picnic service - were it given the go-ahead - to undermine Freeview by causing consumer confusion, and offering financial incentives to channels to switch to Picnic from Freeview (for example, see this article: http://www.digitalspy.co.uk/tv/a14890/sky-tries-to-keep-itv3-off-freeview.html)

Even by launching this service, they would have removed three channels from Freeview, including Freeview's only sports channel and half of the 24hour news channels.

Any MPEG4 equipment may cause further confusion, as per the BBC Trust's concerns about consumers having to buy one STB to view BBC HD on DTT and then potentially replace it if DVB-T2 becomes the standard transmission system for any DTT HD service.

If Sky were to launch Picnic, it would be advertised heavily and could undo the excellent work that DTSL have done, by disassociating "digital tv" from "pay tv". This would reduce take-up of DTT/Freeview and could set back DSO.

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

The launch of TUTV is a suitable case study for this. The appearance on the EPG of pay channels still results in questions like "why can't I receive UKTV Gold?". However, TUTV is a small company and does not have the budget to promote their pay TV service very much, whereas Sky would promote this heavily and could damage the Freeview brand.

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?:

Very. All pay TV on the DTT platform should be available with one set of standards.

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

Sky Text on DTT currently carries the NHS Direct service and Sky should assure that this remains FTA.

Sky should also be made to use or sell on any FTA programme rights they own if they are not going to use them or do not have any FTA channels to broadcast them on.

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?:

Ofcom should choose OPTION 3: NOT CONSENT TO THE PROPOSAL.

I have proposed some conditions, however I do not believe that these will be enough to stop Sky from having a detrimental effect on the DTT platform and, subsequently, DSO should Picnic be launched.

Sky should be removed from DTSL if they are not running any FTA channels on

DTT, as their pay TV service will be a conflict of interest with the Freeview marketing.

Sky should be forced to surrender their contract with NGW for this space and re-bid for it on a FRND basis, as this is such a significant change.

They should also be prevented from retailing any channels not in their original proposal or spreading to more than the proposed three streams.

Sky has refused to supply their pay TV channels to TUTV in the past (see: http://www.mmc.gov.uk/inquiries/ref2007/itv/pdf/hearing_summary_top_up_tv.pdf). This is anti-competitive and Sky should be forced to offer these to TUTV whether or not they are running a pay TV service on the same platform.

Sky should be banned from using the Freeview name in conjunction with any marketing for the service.

Additional comments:

It is very likely that Sky would become the only provider of pay TV on DTT, due to their marketing muscle and dominant position in the pay TV industry. Their only interest in DTT is to undermine Freeview, as they see it as a threat.

Instead, they should concentrate on making their own satellite pay TV business more attractive to consumers and compete with Freeview using the additional strengths of the satellite platform - eg, more bandwidth, standard boxes, single point of control, more stability, high definition services etc. They already have near blanket coverage of the UK and DTT will not extend their reach, and neither will providing a very cut-down service be good for the consumer.

OFCOM SHOULD NOT CONSENT TO THIS PROPOSAL (OPTION 3)