Title:

Mr

Forename:

Tim

Surname:

Cook

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

Tim Cook

Representing:

Self

What do you want Ofcom to keep confidential?:

Keep part of the response confidential

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

Email address

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?:

DSat, cable, and IPTV (backed up by the Freeview service, as in BTVision for example) are in direct competition. Sky's dominance of the market is absolute, but the rise of Freeview as a compelling free alternative, coupled with a strengthening of resolve in the cable and new IPTV sectors, have seen some small shifts towards a more competitive market. This, I believe, is now directly threatened by Sky's Picnic proposal. By utilising scarce DTT spectrum for a second small pay service, on top of the small service already operated by Top Up TV/Setanta, Sky are deliberately weakening Freeview, while bringing literally nothing new to the consumer.

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

None whatsoever. The consumer already has various options for augmenting their current service, from the smaller offerings of Top Up TV and BT Vision, to readily available "full fat" packages direct from Sky or Virgin - most of which will offer better value for money.

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?:

DTT is such a limited platform in terms of capacity, even using mpeg4 compression, that there really is no scope for sustainable competition. DSat and cable both allow for far larger channel packages to be delivered at a fraction of the cost, leaving little room for profit on DTT. As it is, one operator might be able to tailor a small service for the minority of DTT viewers who want pay services, but aren't prepared to pay the small amount extra for a full package; but this should not be allowed to be Sky, since this would simply hand them a pay TV monopoly on a second platform. It should also not come at the expense of three 24 hour streams that could doubtless be leased in a heartbeat to another FTA operator.

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?:

If this proposal is allowed, premium sports coverage will no doubt be a key area of competition.

At present, Setanta offer some premium sports on the DTT platform via Top Up TV's standard encryption system, which is supported by a variety of set top boxes currently available. In future, I predict that Sky's deployment of a second (non-standard) encryption system on DTT will mean many set top box manufacturers will have to choose which to support when designing their products; the dominant name of Sky Sports will no convince many of them to drop support for the system used by Setanta, effectively eliminating this competition. Although Sky may not be directly involving themselves in STB manufacture or distribution, their presence on the platform and insistence on their own standards will nevertheless have an entirely negative effect on competition.

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 become the de-facto gatekeepers of both DSat and DTT in this country (the logical conclusion should these proposals be approved) then, put simply, there would be no competition in the long term. No other cable or IPTV provider could hope to compete with a supplier which controlled both DSat and the basic terrestrial platform in the UK.

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 strongly disagree with Ofcom's apparent perception that the introduction of "Picnic" would not significantly impact on the appeal of Freeview. Moreover, I feel this is likely to be a key strategic aim of Sky in submitting these proposals. Although much of this consultation talks only in terms of competition between different pay operators, in truth I believe Sky perceives Freeview itself as a hostile competitor, despite - or indeed because of - the lack of pay services, since it provides a compelling alternative to multichannel Sky satellite in the digital age. Sky are well aware that introducing Picnic will introduce confusion and scepticism amongst potential Freeview viewers, who will both lose channels and faith in the Freeview brand as a result of the proposed changes. It is not unreasonable to believe that many consumers will assume that Sky control Freeview as well as satellite, and that the further loss of free channels and a move towards widespread subscription on DTT is now inevitable.

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

The presence of any pay TV service on a platform which the public have been encouraged to accept as "Freeview" is obviously confusing in itself. The fact that this new service will remove previously free channels from Freeview, and at the same time require entirely new equipment in addition to that of any existing FTA or pay provider, will all combine to give the impression that Freeview and DTT itself is effectively being re-invented as a Sky platform.

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 a variety of pay services must be present on DTT, then it is essential that they be based on a common CA system. Only then will there be true competition between the services, with viewers able to switch between suppliers without the added confusion and upheaval of changing equipment.

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

I believe the issue of a switch to mixed mode MPEG2 and MPEG4 broadcasting on Freeview is a potentially major technological shift that should be properly debated and co-ordinated at a policy and industry-wide level, not at the whim of a single broadcaster.

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?:

I don't believe there are any conditions or directions that could sufficiently address the full impact of such an event. It would simply be a disaster for media competition in the UK, and should be avoided at literally any cost.

Additional comments:

For many people in the UK, digital switchover is not an opportunity for commercial gain, but simply a technological change over which they have no control or influence. Those people need to know that the change from 5 channel analogue to 30 channel Freeview is a change they can make with confidence, safe in the knowledge that the move has been in the public interest, rather than the corporate interest of companies like Sky.