Title:

Mr

Forename:

M

Surname:

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

Mr M Jones

Representing:

Self

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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?:

At present, pay TV appears only to have a major significant future on Digital Satellite, Digital Cable and IPTV systems. The DTT system has never (and I expect never will) been a major player in the role of providing pay-TV services, simply because of the capacity constraints placed upon it and the approaching digital switch over. At first, ONdigital provided a fairly popular pay-TV service which enabled many viewers to experience DTT for the first time, however it soon became clear that the competition was extremely high on all sides.

ONdigital provided around 50-60 television channels, of which only around 13 were free-to-air, which was simply not an incentive to migrate to DTT. People would only switch to digital transmissions if they wanted pay-TV, with no thought for the looming digital switchover (which at the time was a fair way off). Sky Digital on the other hand provided a much larger system with hundreds of pay and free television channels, with a coverage area of over 95%, against ONdigital?s 60%. With price packages similar, viewers who wished to receive premium television would more likely opt for the Sky Digital service, whereas ONdigital attracted those who did not want ?the fuss? of a satellite dish installation. Alongside the poor financial base and other problems, ON/ITV Digital failed simply through failing to attract the subscribers it required to sustain a reliable financial base. Compared to Sky Digital, its service was inferior and not value-for-money, and people simply did not see the service as the default analogue terrestrial television successor. The ITV brand failed to make people recognise the digital terrestrial platform, and simply the poor planning, limited choice, little FTA/FTV options, bad coverage and CA fraud lead to the company?s cessation.

Freeview on the other hand, in my opinion, has been the biggest success of television history. From the diminishing ITV Digital subscribers, this new free-TV service finally could be the default successor to analogue television. For the first time, people who were otherwise happy with a handful of channels, were able to receive a larger number of television services without making any additional payments whatsoever, and was simple enough to target all generations alike. The strong uphold of well-known multi-channel only television providers, such as UKTV, BSkyB, Emap, MTV and Flextech, instantly attracted millions of viewers into free television. The service significantly grew throughout its five years on air to the 8 or 9 million it stands at today.

Not all pay-TV on DTT has been a failure, however. Top Up TV joined DTT in 2004 using spare capacity from Channel 5 offering a ?lite? pay-TV package. The service offered again some well-known pay-TV channels, with the specific targets of UKTV Gold, TCM, Cartoon Network and Discovery Channel. Its sole presence as pay-TV provider of DTT gave it great brand identity amongst DTT users, and with it using the Mediaguard CA system, enabled former ITV Digital viewers to once again receive pay-TV without having to subscribe to satellite or cable. Its current VOD system is unique and is fairly well priced in the market, and alongside its remaining linear channels, Top Up TV is a fairly attractive package for viewers who do not wish the ?hassle? or extra cost using satellite or cable. TUTV?s PPV services, which have included Television X, Setanta and Xtraview, have enabled ordinary Freeview viewers to view pay-per-view programmes without any additional equipment.

At present, IPTV is a fairly modern concept and its future as a potential provider of pay-TV is rather uncertain. Tiscali TV has been a fairly successful business, but is not really a threat to either of the other three platforms due to its woolly regional coverage areas. BT Vision is a compelling addition to the DTT platform, relatively well priced, and again offers a much ?lighter? pay-TV service with VOD content.

Cable supplies, such as Virgin Media, are extremely popular in the areas they are receivable, and are in great competition with satellite pay-TV, as shown by the higher take-up rates in some of these areas. However on a nationwide scale, cable has a very restricted coverage area, and therefore it cannot be a significant threat to satellite TV choice.

Satellite, on a nationwide scale, is possibly the most dominant pay-TV provider. BSkyB provides many hundreds of pay and free TV channels on its platform and has a coverage area almost to the effect of analogue television. It mainly targets people who want a wide choice and are willing to pay for it. Outside of cabled areas, it is often seen as the ?de-facto? pay-TV operator, besides the rather limited choice of DTT.

Therefore, in accordance with the response above, I conclude that DTT is not, has never been, and will never be a major player in the provisions of pay-TV. It has failed in the past, and due to precious capacity, simply no more pay-TV services cannot be added. Replacing free TV services with pay ones on DTT will never place DTT up to competition with DSat, cable or IPTV simply because of the limited capacity. With no free alternative, people who are not willing to pay a subscription, will be unlikely to convert to DTT. For more choice with no subscription, viewers may opt for Freesat services, and by doing so, the digital terrestrial platform will become irrelevant. Satellite and cable are effectively in the most competition because they provide the same-style service. In pay-TV, the most competing services are satellite and cable, with satellite winning on a nationwide scale but cable winning in localised areas. The ?light? services provided by pay-DTT at present are in little competition with satellite and cable as it attracts a different type of customer, but improving the pay DTT infrastructure significantly damages the (more popular) free DTT infrastructure.

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

Personally, the benefits I can see by BSkyB?s proposals are very limited. As a member of the Freeview consortium, BSkyB?s channels are required to remain on the platform as free-to-air. However, BSkyB have always taken the benefit of the Freeview platform to promote its own pay-TV services to this very different market.

The channel Sky Three broadcast by the company describes that fact. In my opinion, BSkyB are simply using this channel as a ?subscription window? to entice FTA viewers to subcribe to the Sky Digital service. The programmes shown on Sky Three are repeats of programmes shown on other BSkyB pay-TV channels, including Sky One, Sky Two and Sky Travel, which of course are available on the Sky Digital platform. The significant amount of cross-promotion on Sky Three illustrates this. Additionally, there are a significant number of ?subscribe to Sky? advertisements on the DTT version of the channel, again attempting to migrate DTT users to DSat. Although it is a marketing method for BSkyB, Sky Three provides a vital role in Freeview platform, both through the well known name in marketing and the high-standard programming it provides to the platform.

The revised allocation of its three DTT slots however could simply continue such a method. Yes, the service would bring premium movies, sports and entertainment to the platform which has not been seen since the ONdigital era, however I cannot help thinking that the proposed service will continue to act as a marketing area for BSkyB?s major platform, Sky Digital. ?Sky? being a well-known name may make the proposed service equally well-known on the DTT platform, and enable viewers to recognise the premium programmes it would provide on DTT. As I say, BSkyB may use this fact to significantly market the Sky Digital platform, and by reducing FTA programming, would give BSkyB another reason to advertise the more varied platform of Sky Digital. It would also mean consumers who desire a ?light? pay-TV service would be able to access such channels with little fuss, however may lead to confusion with other pay-DTT operators such as Top Up TV and BT Vision.

The very fact itself BSkyB only intend providing Sky Sports 1 as opposed to the other three Sky Sports channels suggests to me that their intentions for this slot are only to damage the potentially competing Freeview platform, as much of Sky Sports? content is on its other channels. BSkyB potentially could use that to move its more popular sports programming over to Sky Sports 2/3/Xtra, again using the DTT Proposal only as a method to scoop up more Sky Digital customers. The same can be said for the Sky Movies package.

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?:

As I answered for question 1, pay-TV is simply not a viable option for the DTT platform, especially with today?s proximity to the DSO. It has failed terrifically in the past and its 2004 revival has definitely not been a threat to the other pay-TV providers.

Top Up TV provides an invaluable service to the DTT platform. Using otherwise unused bandwidth, TUTV is able to provide a light low-cost VOD/linear pay-TV service. Besides NTL, Telewest and Homechoices? earlier VOD services, Top Up TV Anytime was the first national broadcaster to provide viewers outside of cable and IPTV platform areas VOD content from a wide variety of channels, alongside the pay-TV linear channels, UKTV Gold, UKTV Style and British Eurosport. Additionally, Setanta Sports? presence on the platform enables a variety of premium sporting events, using the same CA system as Top Up TV, enabling viewers to subscribe to multiple services using the same equipment and reducing confusion between pay-TV providers.

This current ?light? service is sustainable, and the only way pay-DTT can be lead into DSO. It targets an audience not targeted by the major pay-TV platforms of satellite and cable, and is of a significantly lower cost. The compatibility between the current services is also vital to the consumer?s perceptions of pay-DTT, as it simplifies the concept and enables viewer?s existing equipment to be compatible with the varying services, disabling the need for separate viewing cards / set top boxes. A full pay-TV DTT platform is very unsustainable, as shown by inevitable collapse of ITV Digital, alongside similar DTT broadcasters suffering the same fate in other countries.

The whole of DTT services can be ruined once again by re-implementing a major pay-TV service. As shown by ITV Digital, viewers take the perception that if they want pay-TV choice, then they ?go for Sky?. Additionally, introducing a second C/A system will have a definite negative impact on the platform, instantly making pay-TV services incompatible with each other. This will require viewers to use separate receivers, separate viewing cards and separate ways of obtaining customer service, causing much confusion as to which equipment is compatible for which. It could also significantly damage the current pay-TV offerings, as many viewers will only want to subscribe to one service, so if a viewer were to subscribe to BSkyB?s offering, they would be unable to use Top Up TV?s VOD service, and therefore may cancel TUTV?s subcribtions. BSkyB is a much larger company and could easily promote a much greater brand awareness of its service than the existing providers could, which may ultimately reduce competition from the existing pay-DTT providers and lead to pay-DTT monopolising.

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?:

Top Up TV is basically seen as the major pay-DTT provider for general content from a mixture of broadcasters, complementary to the Freeview service. It was the first VOD DTT provider, and its ?light? service targets a specific range of consumers who are not interested in the major pay-TV providers, but would want more choice than the standard FTA channels on DTT.

The genre of sports is currently handled by two providers; Setanta and Top Up TV. The first sports channel to launch on Top Up TV?s service, British Eurosport, forms part of TUTV?s main package as both a linear and VOD service, and is a vital selling point to TUTV?s services. Setanta now exists as a full stand-alone linear pay-TV channel, encrypted and often marketed by Top Up TV. TUTV and Setanta have always had a close relationship, as shown by the significant cross-promotion of services and leasing of capacity, which effectively allowed Setanta to get on the DTT platform. Setanta?s pricing is significantly less than BSkyB?s Sky Sports services, and like other pay-DTT services, targets viewers who aren?t willing for the fuss and extra cost of a full pay-TV service, but want to view a variety of premium content. Setanta provides a vital role to both the DTT platform and Top Up TV, with the inter-compatibility between TUTV and Setanta being a key selling point. Since the two are inter-related, they are effectively not in competition.

The genre of movies content is served by three providers, TCM, Film4 and PictureBox, not including IPTV. The TCM service, initially to be part of Freeview, has proved a success in the main Top Up TV service, being the first film channel on DTT since the collapse of ITV Digital. Additionally, the premium add-on PictureBox is a low-cost VOD alternative to competing services on other platforms; again targeting viewers who do not wish to throw the expenses on a larger pay-TV service. The only drawback with TCM and PictureBox is that the services are now only VOD, however the services are relatively inexpensive after the initial cost of equipment. Film4 has filled the gap of a free film channel and provides a good service to all Freeview viewers. BT Vision?s alternatives are fairly wide-ranging and again fairly priced, however many viewers are confused by the concept of IPTV mixed with DTT.

BT Vision generally has the potential to be the largest VOD premium film provider, and has the added bonus of being compatible with the Setanta service.

To compete against each other, offerings must be original, fairly priced and well advertised. However since this is the predominately free-DTT platform, many viewers will want simplification of obtaining such services and having to purchase additional equipment may put people off. Having many providers can be confusing for some viewers, but premium content must not already be covered by Freeview offerings in order to compete.

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?:

Should BSkyB become the de-facto provider of pay-TV on DTT, it would effectively eradicate what competition exists. BSkyB is the UK?s biggest provider of multichannel pay-TV services, and introducing a pay-TV service to DTT will only be likely to damage the platform significantly, giving it a much larger monopoly on the pay-TV market.

The UK is faced with digital switchover, and having a sole pay-DTT provider will instantly put people off from converting to digital. Freeview is the only way in which effectively everybody will be able to receive digital transmissions post-switchover, replacing ATT as the ?default? television provider. A pay-DTT service would not be able to do that, being a) not open so that receivers can be mass produced and b) significantly reducing FTA content which will look less attractive to potential viewers.

The cable providers would definitely struggle to provide an effective competing service if BSkyB manage to acquire significant capacity on DTT; especially Virgin Media since BSkyB removed their channels from the platform in early 2007, so giving a Sky service on DTT a unique selling point over VM. But as I have pointed out earlier, I only believe BSkyB?s intentions to launch the proposed service is to increase its Sky Digital revenues and damage Freeview choice.

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 believe the Proposal will affect those concerns outlined in Section 4 of the document.

People?s perceptions of Freeview are very positive. Freeview is seen as the ?de-facto?, simple and free transition to digital television, as I stated earlier, the biggest achievement in digital broadcasting history. It offers choice and flexibility at zero cost, providing a range of FTA channels in an open system that every broadcaster has its rights to. Using an example, my grandmother can easily understand the concept of

Freeview and that every channel on the service is free, and sees it as ?going over? into DSO. Ask her say five years ago about ITV Digital, and she?d not be interested; the same goes with Sky Digital today. The bottom line of Freeview is that it?s simple and appeals to everyone. The broadcasters are now using Freeview as one of their biggest assets, as a recent example is shown by Virgin Media?s re-brand of Ftn to Virgin1 with a host of new unseen programmes, instantly showing their faith and importance they perceive in the Freeview platform. The price DTT multiplex operators charge and the wild bidding wars that they carry out shows how crazy and serious broadcasters are about using this precious resource, and re-introducing pay-TV on a larger scale than at present is a ludicrous idea to a formula that obviously works. So effectively, introducing more pay-TV on DTT will slow the rate of digital take-up, and may not reach government targets for DSO.

Another concerning factor is the inclusion of competing CA systems, as proposed by BSkyB. Since launch, Top Up TV have used the MediaGuard 2 encryption system, of which is compatible with all ex-ONdigital equipment, including the conditional access modules. In comparison with the system used by ONdigital, Top Up TV?s methods have appeared to be more successful and enabled viewers with legacy equipment to view pay-TV. Newer equipment produced under the era of Top Up TV have continued using this MediaGuard encryption system only, which are the set-top-boxes and new CAMs. Now, introducing BSkyB?s proposed NDS encryption system will make almost ten years worth of MediaGuard equipment incompatible. This will lead to huge confusion over which equipment is required to view which service, what channels they provide whether a viewer can have all pay-TV content on DTT. In a short answer, the full range of pay-TV services on DTT will never be available to Joe Bloggs customer without buying duplicate equipment. Incidentally, unless BSkyB provided NDS-complient CAMs (which they have not mentioned), those who own an IDTV will be required to purchase yet another digital receiver to work on top of their existing digital receiver in a ridiculous notion, not to mention being incompatible with a MediaGuard viewing card also. It would be particularly annoying to football fans who find that some of the Premier League matches are shown on BSkyB?s Sky Sports, while the remaining matches are shown on Setanta Sports. Since Sky Sports will be encrypted using NDS and Setanta by MediaGuard, not only will the viewer be annoyed by having to take out separate subscriptions, the two will require separate receivers and viewing cards. I fear however that Setanta may be drawn by the fact that it could join forces with BSkyB?s NDS system to enable sports fans to view all sports content, which may cause damage to Top Up TV?s business.

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

It would lead to a lot of confusion. Many people at the moment cannot grasp the concepts of the Top Up TV service running alongside the Freeview service, and therefore question why the platform is mostly marketed as ?FREEview?. The BBC themselves highly criticised Top Up TV in a previous consultation, stating on the lines that mixing pay-TV channels with free-to-air channels would be detrimental to the DTT platform and cause significant confusion, specifically within placing pay-TV channels in the EPG amongst free ones. It had taken Top Up TV significant marketing to display that it was separate from the Freeview platform, and still it is not a widely-recognised major pay-TV provider. BSkyB?s proposals would be in an even worse situation, in that ALL Freeview viewers who wish to subscribe to the package are REQUIRED to purchase a new set top box, which is INCOMPATIBLE with Setanta AND Top Up TV. The concepts of the different hardware will be most baffling to less experienced DTT viewers. Such a proposal would only severely damage free-to-air offerings and then the value of the Freeview brand, of which BSkyB wrongly identifies as a threatening competitor. As a member of the Freeview consortium, BSkyB should not attempt to damage the service, and should not use its ?gifted? capacity to ruin the service which it partly founded.

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 essential that all streaming DTT pay-TV services are inter-compatible. This does not mean allowing manufacturers to produce STB?s with both NDS and Mediaguard viewing card hardware; this means ALL pay-TV providers using the SAME encryption method so viewers have ONE viewing card. The idea of having two or more pay-TV providers on the same platform requiring two separate viewing cards and encryption methods is ludicrous. It just doesn?t happen. No other platforms in the UK and indeed very few abroad would ever use this method. Top Up TV and Setanta on DTT have a very close relationship in that their systems are compatible, which enables viewers to access content from both providers, with ONE viewing card. This should set the standard for all future potential pay-TV services sharing a platform.

Another example could be the Sky-by-Wire service operated by BSkyB on the Tiscali TV platform. Here, BSkyB?s services are operated by BSkyB, however using Tiscali?s hardware and systems, allowing subscribers to have content from both Tiscali and Sky-by-Wire. Why can this not be done with the Proposal? Nevertheless, services offered by different companies on the same platform ALWAYS cause confusion.

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

It will cause significant monopolising if BSkyB are permitted to go forward and broadcast premium services in an unregulated manner. As said many times previously, implementing a competing and incompatible system will cause other pay-TV operators on DTT such as Top Up TV to leave the market, as BSkyB is a much larger company headed by a series of global tycoons. Independent broadcasters may suffer under pressure to join pay-TV services, and may add greater pressure for public service and regional offerings to compete, adding greater financial difficulty and possible closures.

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?:

It would absolutely ruin competition, and should not happen whatsoever. However, if it were to be regulated, it should be FORCED to use the existing compatible encryption methods used by the current pay-TV operators, and should NOT be allowed to use gifted capacity from being part of the Freeview consortium; i.e. BSkyB must place bids for broadcast capacity Also it should not be allowed to use the Freeview brand-name in any form whatsoever, which will lead to confusion. Viewers would need to be informed that BSkyB?s service has nothing to do with Freeview and that nothing is compatible.

However I strongly believe that BSkyB should not be given the opportunity to take on pay-DTT services as it will only damage the Freeview platform, especially in a time where digital switchover is underway.

Additional comments:

Ofcom should not grant permission for BSkyB to launch a competing pay-DTT service. Pay services on DTT do not work, and the small gap in the market for a ?light? service has been filled; BSkyB has no reason to be involved in this niche market. The proof is within the collapse of ITV Digital and similar services overseas, the little capacity on DTT is precious and cannot extend to host pay-TV services. I believe the concept behind BSkyB?s proposals is simply to damage the platform and increase subscriptions on its own Sky Digital platform by reducing choice on DTT, driving viewers away. It may also benefit from the confusion it would make.

All systems would be incompatible, with two competing encryption methods being used, meaning viewers having to purchase two DTT receivers, possess two viewing cards, with two customer call centres etc. This would cause catastrophic confusion with viewers, and at a time of digital switchover, would drive viewers away from DTT altogether, effectively killing the platform and related public policies, such as regional broadcasting. BSkyB are being hypocritical and should not be allowed to retain its ?gifted? capacity assigned for being part of the Freeview consortium. Being one of the biggest broadcasting companies, BSkyB think they can monopolise the market towards their Sky Digital service by killing all other competition, of which it identifies Freeview as. As I?ve said many times, Freeview IS NOT in competition with Sky Digital. Viewers choose Freeview over Sky Digital because they don?t want to pay for digital television. BSkyB however feel they can draw viewers from Freeview to subscribing to their package by installing a lame 3-channel package to damage the platform, causing huge hardware incompatibility and viewer confusion. A package such as the one proposed by BSkyB will attract VERY FEW viewers in the DTT market, and for the most of the Freeview-viewing population, will simply just remove three decent channels from the platform. Removing Sky News and Sky Sports News will be the biggest loss to the many, and reducing the news content on the platform to one, single channel. Both ITV News and Bloomberg have been removed from the DTT platform, and with both of BSkyB?s news channels gone, the genre will have NO choice whatsoever, giving the BBC a total monopoly on news provisions on the Freeview platform. Top Up TV and other pay-DTT providers will suffer due to the confusion and incompatibility.

Basically, BSkyB just wrongly see Freeview as a competitor and I fear wish to damage the service in this critical time of digital switchover. I believe Ofcom can see the long-term damages that the Proposal could bring to the provisions of DTT, and should not grant BSkyB to launch the proposed service. BSkyB?s largeness as a company should not excuse it from the damages to television it can commit.