

Title:

Mr

Forename:

David

Surname:

Henry

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

Rapture TV

Representing:

Organisation

Organisation (if applicable):

Rapture Television PLC

What do you want Ofcom to keep confidential?:

Keep nothing 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?:

It is clear that few households will have more than one box connected to their main TV. While different platforms may compete with each other the content on those platforms comes from a small number of suppliers. Therefore there is little choice when it comes to content.

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

There is no prospect of any benefits to consumer of removing Free content and replacing it with Pay TV content. It will in fact reduce content available to all users of the DTT platform.

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 competition between different Pay TV suppliers. As Sky is proposing to use its own technology which is not compatible with the 9 million set top boxes already installed in the UK.

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?:

There will be no competition between providers of Pay TV services since Sky already has the majority of Pay TV content signed exclusively and there is little scope for a real competition now or in the future.

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 was granted permission to roll out its Pay TV offering on DTT it would clearly be against the public interest. Less free content would lead to a poorer offering to all DTT viewers. There is clear evidence on Dsat that Sky has restricted the growth of other Pay TV suppliers. Sky has also refused to supply Sky One to cable on reasonable terms.

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?:

If Sky removes Sky News from free to air DTT then there will be only BBC News 24. Only 1 news channel will not lead to a choice of views and is therefore against the public interest.

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

If there is more than one type of set top box needed it is likely to prevent further growth of the DTT platform. Evidence of this is clear when you view the development of VHS v Betamax. Once there was only one format to consider the market took off. DVD is a success because there was one format.

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 very important. No-one wants to have to buy or get a Sky DTT box 'Free' and have to operate 2 boxes to watch all the available content.

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

It will almost certainly lead to further public policy concerns. I will supply a copy of NDS documents that show how NDS has been accused and sued by many competitors for piracy of Viewing cards for other platform operators. Each of the claimants have settle out of court when News Corp offered to buy some or all of the company for very large sums of money. NDS supplies the Videoguard and Mediawayguard technologies which are not compatible with the set top boxes supplied by Top Up TV or Setanta.

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 there is clear evidence that Sky pays little if any attention to regulations or directions from the regulator.

Additional comments:

NDS document can be found at
http://www.nds.com/newspdfs/Q1_results_FY2003.pdf