ANNEX 1

RESPONSE TO OFCOM'S QUESTIONS

Introduction

1. **What characteristics should the pay TV sector display in order to serve consumers best?**

1.1 Virgin Media broadly agrees with Ofcom's criteria for assessing the pay TV market and believes that, consistent with these criteria, a pay TV sector would serve consumers best if it:

(a) enabled consumers to choose, and switch easily, between a number of competing pay TV providers, each of which being able to offer a broad range of high quality content;

(b) promoted innovation by all market participants, in particular promoting each platform to innovate in order to offer services which take advantage of the specific advantages of each TV platform and to package their services in ways to meet consumer demand; and

(c) resulted in pay TV services being priced competitively and efficiently.

1.2 For reasons set out in the various submissions made by Virgin Media and the Four Parties,[1] the current market structure, in particular Sky's market power at various levels of the pay TV supply chain (including its stranglehold over key content), results in these criteria not being met, to the ultimate detriment of consumers.

2. **Do you agree with the amendment to our criteria for assessing the pay TV market?**

2.1 Virgin Media agrees with Ofcom's refinement to its criteria for assessing the pay TV market, i.e. the inclusion of the specific acknowledgment that innovation "*is not limited only to technical platform features. It can also take the form of new types of retail packages*".[2] In this connection Virgin Media reiterates its previous observation that, as a result of the terms on which Virgin Media is currently able to acquire wholesale access to Sky Sports and Sky Movies channels, Virgin Media is very limited in its flexibility to create attractive product bundles for customers. In this connection, Virgin Media refers to paragraph 4.14 of its Supplementary Submission.

2.2 Virgin Media also draws to Ofcom's attention its earlier representations in relation to the criteria against which Ofcom proposes to assess the pay TV market as set out in section 2 of the Virgin Media Response.[3] These observations continue to be relevant to Ofcom's analysis.

The importance of premium content

3. **Why do consumers pay for TV services?**

3.1 Consumers pay for TV services in order to access a range of content and features that is either unavailable, or available only to a limited extent, via FTA TV services. In this regard, Virgin Media agrees with Ofcom's observation that the primary reason why

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1 See, for example, Part 3 and Annex 6 of the July 2007 Joint Submission.

2 Second Consultation Document, paragraph 2.50.

3 Response of Virgin Media to Ofcom's Consultation Document of 18 December 2007 as submitted on 7 March 2008.

consumers choose a particular retailer (or platform) is the choice of content available.[4] In this connection, as acknowledged by Ofcom, there are two key types of content which have both broad consumer appeal and limited availability on FTA channels, specifically: premium sports (i.e. live top-flight sports) and premium movies (i.e. first-run Hollywood movies).[5] It is Virgin Media's experience that access to this content is a key driver of subscriber uptake and is also essential to retain customers.

4. **Do you agree with our assessment of the relative importance of platform features and content?**

4.1 Virgin Media agrees with Ofcom's assessment that content is the "*major driver behind consumers' selection of their pay TV service*".[6] Virgin Media also agrees with Ofcom's observation that technical features such as EPGs, personal video recorders (PVRs), VOD or HD cannot "*turn undesirable content into desirable content*".[7]

4.2 This is consistent with Virgin Media's experience. Virgin Media is able to offer a range of enhanced features on its cable platform, including an extensive VOD service. However, in the absence of access to premium sports and premium movies content at economic prices, Virgin Media is unable to compete aggressively with Sky for pay TV subscribers.

4.3 Further, interactive features that Virgin Media would like to offer its consumers often require access to underlying content rights. Without access to these content rights, Virgin Media cannot offer the related interactive service. For example, as set out in detail in the Supplementary Submission,[8] there is consumer appetite for an SVOD movie service. The only impediment to Virgin Media offering such a service is its inability to obtain SVOD movies rights from Sky or directly from the Major Hollywood Studios. This example illustrates that access to content rights is paramount and further, that lack of access of content rights can prevent a platform from utilising its technological capabilities to offer innovative and attractive services.

4.4 Against this background, Virgin Media does, however, consider that where the same content is available on multiple TV platforms, platform features become a more important differentiator in the battle to win and retain subscribers. In this connection, where the same content is available at economic prices across a number of platforms, Virgin Media would expect TV platforms to compete aggressively in relation to platform features, resulting in significant innovation to the benefit of consumers.[9]

5. **Do you agree with our views on the importance of premium sports and premium movies content for competition in pay TV?**

5.1 Premium sports and premium movies content are the most effective types of content in driving pay TV subscriptions. Specifically, the ability to offer channels, and package of channels, containing a wide range of sports content (i.e. across a range of sporting events) and a wide range of movies (i.e. from a number of studios) is key to attracting and retaining pay TV subscribers. In this regard, Virgin Media refers to Section 3 of this Submission which discusses the importance of offering a range of sports content and Section 4 of this Submission which discusses the importance of any first run movies service offering movies from a range of Major Hollywood Studios.

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4 Second Consultation Document, paragraph 3.29.

5 Second Consultation Document, paragraph 3.2.

6 Second Consultation Document, paragraph 3.34.

7 Second Consultation Document, paragraph 3.36.

8 Supplementary Submission, Section 5.

9 This is supported by external research, see slides 22 to 23 of Annex 2 and paragraphs 7.35 to 7.54 of this Submission.

6. **Are there any other international examples to which you would draw our attention?**

6.1 An extensive volume of evidence on the importance of premium sports and movies content to UK pay TV subscribers has been submitted to and collated by Ofcom. This evidence is of most direct relevance to Ofcom's investigation. Nevertheless, references to international examples demonstrating the importance of sports and movies content were set out at paragraph 2.2 of Part 3 of the July 2007 Joint Submission.

Market structure and market definition

7. **Do you agree with our overall approach to market definition analysis?**

7.1 Virgin Media has two fundamental concerns in relation to Ofcom's approach in the Second Consultation Document to market definition:

(a) first, the Second Consultation Document does not define the relevant downstream retail markets (or consider market power at the retail level). For the reasons set out at Section 5 of this Submission, it is essential that Ofcom addresses both market definition and market power at the retail level; and

(b) second, for the reasons set out at Section 3 of this Submission, in considering the relevant market for premium sports channels, Ofcom has erred by focusing too narrowly on the wholesale supply of channels containing live FAPL matches in relation to its assessment of the relevant market and market power.

8. **Do you agree with our definition of the market for Core Premium Sports channels or do you believe it to be narrower or wider than we have suggested? If so, what specific evidence to you have to support your view?**

8.1 As set out in Section 3 of this Submission, Virgin Media disagrees with Ofcom's overly narrow approach to defining a market of Core Premium Sports content, i.e. a market only for the channels including live FAPL content.

9. **Do you agree with our definition of the market for Core Premium Movies channels or do you believe it to be narrower or wider than we have suggested? If so, what specific evidence to you have to support your view?**

9.1 As set out in Section 4 of this Submission, Virgin Media agrees with Ofcom's definition of the market for Core Premium Movies channels.

10. **How would you see the future development of consumers' viewing habits for sports and movies, and of the ways movies will be delivered to them? How would this affect market definition?**

10.1 One of the major trends in TV watching is the development and growth in VOD services. The move away from linear content and increasing demand for VOD services is discussed in paragraphs 7.11 to 7.13 of this Submission, and in more detail in paragraphs 5.8 to 5.11 of the Supplementary Submission. Market developments and trends suggest that the demand for VOD services in the UK can be expected to grow very significantly over the next few years.

10.2 In particular, Virgin Media considers that there is considerable latent demand for an SVOD movie service. If such a service were available (currently Sky warehouses SVOD rights for first-run movies), Virgin Media would expect a considerable shift in the viewing habits of consumers. However, this shift is fundamentally dependent on the availability of SVOD movie rights.

10.3 Although this may not necessarily affect market definition, this trend is important in the consideration of the scope of any WMO (see paragraphs 7.11 to 7.18 of this Submission).

Content aggregation and market power

11. **Does Sky have market power in the wholesale of Core Premium pay TV channels?**

11.1 Subject to the observations set out in response to questions 12 and 13 below, Virgin Media agrees with Ofcom's finding that Sky has market power in the wholesale supply of Core Premium pay TV channels.

12. **Do you agree with our conclusion that Sky has market power in the wholesale of Core Premium Sports channels? What specific evidence would you provide to support your view?**

12.1 Virgin Media agrees with Ofcom's finding that Sky has market power in the wholesale of Core Premium Sports channels.

12.2 However, Sky's market power extends beyond Core Premium Sports. As set out in Section 3 of this Submission, Sky's market power arises, not only from Sky's control of FAPL, but also its ability to aggregate a body of content (in particular a range of attractive sports) which is highly valued by customers and a key driver of consumer demand. Ofcom's assessment of market power does not give sufficient weight to the manner in which content aggregation contributes to Sky's dominance, in particular its unique ability to offer attractive bundles comprising live FAPL and other sporting events. Sky's unique position in being able to offer these bundles is critical to understanding its market power and the dampening of competition at both the wholesale and retail levels of the pay TV market.

13. **Do you agree with our conclusion that Sky has market power in the wholesale of Core Premium Movies channels? What specific evidence would you provide to support your view?**

13.1 Virgin Media agrees with Ofcom's conclusion that "*Sky is currently dominant and is likely to be dominant in* [the relevant market for the wholesale supply of Core Premium Movies channels] *for the next three to four years*."[10]

13.2 However, Virgin Media makes the following observations on the enduring nature of Sky's market power:

(a) Sky's high market share is not significantly altered by taking an alternative view of the relevant market, in particular if the market is widened to include, respectively, PPV movies, DVD rental subscription packages and over-the-counter DVD rentals; and

(b) Sky's dominant position in the wholesale supply of Core Premium Movies channels is unlikely to be undermined by potential entrants. Indeed, Virgin Media's direct experience demonstrates that there are no reasons for believing that Sky's market power in relation to Core Premium Movies will change materially in the foreseeable future, in particular because:

(i) deals with no fewer than three of the Major Hollywood Studios would be required to support a viable competitive offering; and

[10] Second Consultation Document, paragraph 5.121.

(ii) the barriers facing new entrants are, in Virgin Media's experience, very significant even in relation to the acquisition of rights from one of the six Major Hollywood Studios.

13.3 Section 4 of this Submission sets out in detail Virgin Media's analysis of why it considers that Sky's market power in relation to Core Premium Movies is unlikely to diminish.[11] In short, absent regulatory intervention, Virgin Media does not consider that there is any realistic prospect of this changing in the foreseeable future. Further, even if circumstances did change, a very material change in the competitive situation (i.e. the acquisition by an entity other than Sky of the movie output of at least three Major Hollywood Studios) would be required before there could be any reason for Ofcom to revisit its assessment of market power.

Competition issues related to Core Premium content

14. **Can retailers and/or platform operators get sufficient access to Sky's Core Premium channels?**

14.1 Retailers and platform operators cannot get sufficient access to Sky's premium sports and movies channels. In this connection, Sky's behaviour takes three forms:

(a) a refusal to offer wholesale access (for example Sky's refusal to provide premium content for an off-net IPTV service); [12]

(b) the offer of wholesale access but only at uneconomic rates (for example Sky's wholesale terms are such that Virgin Media's margins are actually reduced if a subscriber to Virgin Media's XL package of basic channels upgrades to a package containing one or more of Sky's premium channels); [13] and

(c) access to an inferior product (e.g. no HD or interactive service) which may also heavily cross-promote the Sky DSat service. [14]

14.2 Virgin Media and the Four Parties have submitted voluminous evidence on the lack of sufficient access to Sky's premium sports and movies channels. By way of example:

(a) the January 2007 Joint Submission,[15] Part 3, paragraph 4.5 and Annex 2, paragraphs 2.7 to 2.29;

(b) the July 2007 Joint Submission, Part 3, paragraphs 4.5 to 4.6 and Annex 6, paragraphs 2.7 to 2.31; and

(c) the Virgin Media Response, paragraphs 1.30 and 6.10 to 6.16.

15. **Have we presented a factually correct picture of current distribution of premium sports and premium movie channels?**

15.1 Virgin Media has focused its response to this question on Ofcom's description of the current distribution of sports and movies channels in general and specifically to Virgin

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11 In addition, Virgin Media refers to paragraphs 5.16 to 5.17 of the Virgin Media Response and Part 2, paragraph 3.1 of the July 2007 Joint Submission which discuss is more detail Sky's market power in relation to premium movies.

12 See, for example, the July 2007 Joint Submission, Annex 6, paragraphs 2.30 to 2.31.

13 See, for example, the July 2007 Joint Submission, Annex 6, paragraph 2.9 to 2.10.

14 See, for example, the July 2007 Joint Submission, Annex 6, paragraphs 2.16 to 2.29.

15 Preliminary Submission to Ofcom on the need for a market investigation into the pay TV industry by British Telecommunications plc, Setanta Sport Holdings Limited, Top Up TV Europe Limited and Virgin Media Limited (formerly known as NTL Group Limited) of 16 January 2007.

Media. Virgin Media has not responded in relation to how Ofcom has described the current distribution of sports and movies channels to other retailers and platforms.

Distribution of Sky's premium sports and movies channels

15.2 Virgin Media agrees with Ofcom's pictorial representation of the distribution of Sky's premium sports and movies channels as set out in Figure 26 of the Second Consultation Document. However, Sky also distributes individual movies via its PC VOD service SkyPlayer as part of its Sky Movies package (supplied to DSat subscribers only).

15.3 Virgin Media supports Ofcom's view that "*from a commercial perspective, the current combination of wholesale charges and incremental retail price for the premium channels does not create the incentive for Virgin Media to attempt to sell premium channels to existing basic subscribers. Indeed, it may even result in Virgin Media being quite content to stop selling premium channels to its customers as long as they keep subscribing to a basic package.*"[16] This is consistent with the detailed evidence submitted to Ofcom by Virgin Media, including in Annex 6 of the July 2007 Joint Submission (paragraphs 2.9 to 2.10).

15.4 Ofcom has not, however, explicitly recognised that Sky has also refused to supply to Virgin Media:

(a) Sky Sports and Sky Movies on a wholesale basis for a Virgin Media's off-net IPTV service;[17] and

(b) HD and interactive enhanced features related to the Sky's premium sports and movies channels.

15.5 These refusals to supply are important features of Virgin Media's relationship with Sky as regards the wholesale supply of premium sports and movies channels.

Distribution of Setanta premium sports channels

15.6 Virgin Media agrees with Ofcom's description of the distribution of Setanta's premium sports channels. Setanta's premium channels are more widely available on a wholesale basis because, as acknowledged by Ofcom:

(a) "*Setanta does not have the same degree of vertical integration as Sky, in that it does not operate its own platform*";

(b) Setanta does not have market power at the wholesale channel level and therefore has less incentive to favour its own retail business; and

(c) "*Setanta does not retail the same range of additional services as Sky*."[18]

15.7 This is consistent with Virgin Media's experience in dealing with Setanta. Setanta has been willing to enter into innovative agreements for the supply of its sports channels, resulting in Setanta Sports being available to all Virgin Media XL subscribers. This flexibility and desire to innovate does not exist in Virgin Media's commercial relationship with Sky.

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16 Second Consultation Document, paragraph 6.36.

17 See, for example, the July 2007 Joint Submission, Annex 6, paragraphs 2.30 to 2.31.

18 Second Consultation Document, paragraph 6.45.

16. **Do you agree with the list of factors we present as being relevant when Sky considers whether to supply?**

16.1 Ofcom notes four factors that influence Sky's willingness to wholesale and, more importantly for Virgin Media, the price at which Sky would be prepared to wholesale:

(a) the margin that Sky can earn from retailing – both its premium channels and other products;

(b) the propensity of subscribers to switch retailers;

(c) advertising revenues; and

(d) longer-term issues relating to the extent to which other retailers may be able to establish themselves as more effective rivals to Sky both at retail level and in other parts of the value chain.[19]

16.2 Virgin Media agrees with these factors. However, Virgin Media also observes that this discussion on Sky's willingness to wholesale and, more importantly for Virgin Media, the price at which Sky would be prepared to wholesale must ultimately be considered by reference to Sky's actual behaviour. As set out above in response to question 14, Sky currently does not wholesale its premium sports and movies channels to a range of retailers (including to Virgin Media in relation to an off-net IPTV service), supplies Virgin Media at uneconomic prices and refuses to supply HD and interactive/enhanced content.

17. **Do you agree with our presentation of the longer-term factors in Sky's decisions to supply?**

17.1 Virgin Media agrees that longer-term (strategic) factors influence Sky's decision as to whether to supply its channels to rival retailers.

18. **Do you agree with our discussion of the role of vertical integration?**

18.1 Virgin Media generally agrees with Ofcom's discussion of the role of vertical integration.

19. **Do you agree with the figures we have presented to illustrate the playing-out of incentives to supply?**

19.1 Virgin Media has focussed its response to this question on Ofcom's methodology in general and its application to Virgin Media. Virgin Media has not responded in relation to how Ofcom has applied its analysis to other retailers and platforms.

19.2 First, Virgin Media agrees with limitations of Ofcom's analysis as set out in paragraph 6.95 of the Second Consultation Document, in particular Virgin Media agrees that Ofcom's analysis "*cannot capture the longer-term, strategic incentives to do with the competitive landscape. If anything, therefore, it is likely to overstate* [Sky's] *incentive to supply.*"

19.3 Second, Virgin Media agrees with the observed effects concerning consumers' choices as set out in Figure 30 of the Second Consultation Document. These effects support the fact that premium sports and movies content drives pay TV and that Virgin Media is heavily reliant on content from Sky. These effects also reinforce why Virgin Media continues to acquire premium sports and movies content from Sky at such uneconomic rates – lack of access to that content would undermine Virgin Media's entire business model.

19.4 Third, Virgin Media notes in relation to Figure 31 of the Second Consultation Document that the payback periods calculated by Ofcom must be considered in light of Sky's business practices to date. Sky has demonstrated, since the launch of its DSat service in

[19] Second Consultation Document, paragraph 6.50.

1989, that it is willing to make significant investments and indeed incur considerable short-term losses in return for long-term gain.

19.5 Lastly, and more specifically, Virgin Media notes that Ofcom's modelling of Sky's incentives to supply is sensitive to a number of assumptions which Ofcom has highlighted.[20] In particular, Ofcom examines the payback period over which cumulative discounted profits from withdrawing supply to Virgin Media pass through break-even, and examines this payback period under a number of alternative assumptions. The payback period seems to be most sensitive to the assumption relating to the immediate switching response of Virgin Media customers to the loss of Sky's premium channels from their packages. The assumption is based on Ofcom's consumer research into the reaction of premium cable customers to the loss of certain premium packages. The payback period ranges from 4 years to 13 years depending on whether the upper or lower limit of switching is used, as implied by the 95 per cent confidence intervals around the survey responses. Virgin Media notes the small samples used for this part of the research (for example, the 53 per cent switching rate attributed to subscribers of Sky Sports only was based on a sample of 80 subscribers to Sky Sports). In light of this, and given the importance of premium content which is widely acknowledged in Ofcom's consultation paper, there is a strong likelihood that the upper switching limit rather than the lower is more relevant.

19.6 Ofcom acknowledges that certain factors are not quantified as part of the modelling exercise. In particular it states that such factors include:

> "*Sky's greater strength at the retail level resulting in increased strength at the wholesale level - as explained in section 5 on market power, we believe that there is a relationship between retail subscribers and wholesale market power. Therefore, if Sky expands its retail base, it will strengthen its advantage in content rights acquisition and channel provision*".[21]

19.7 Virgin Media and the Joint Parties have described this effect as a "*vicious circle*"[22] and considers it to be vital in understanding the pay TV market dynamics which perpetuate Sky's position of dominance. Whilst this cannot easily be incorporated in a simple vertical arithmetic exercise, Virgin Media considers this factor to be highly significant in its influence on Sky's incentives to wholesale its content. Virgin Media also considers that in order for Ofcom to fully capture this effect in its assessment of Sky's market power, it must reach a view on Sky's market power at the retail level, which it does not do in the Second Consultation Document (see further Section 5 of this Submission).

20. **Do you agree with our proposal that it is important for multiple operators to have wholesale access to Core Premium content, rather than Sky retailing on others' platforms?**

20.1 Virgin Media agrees with Ofcom's proposal that it is important for multiple operators to have wholesale access to premium content, rather than Sky retailing on others' platforms. Specifically, Virgin Media agrees that:

(a) if "*Sky were the only retailer of a particular type of content over all platforms, there would be minimal pressure on retailing costs for that content*";[23]

(b) "*where Sky retails via other operators' platforms, it has an incentive to weaken its retail offering, in order to increase the likelihood of customers selecting to take up*

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[20] Second Consultation Document, Section 6, Figure 31.

[21] Second Consultation Document, paragraph 6.105.

[22] See, for example, the July 2007 Joint Submission, Part 3, Figure 2.

[23] Second Consultation Document, paragraph 6.117.

that content via its retail offer on its own platform."[24] In this regard, Sky's actual behaviour as a retailer of Sky Sports and Sky Movies on Tiscali's IPTV service is particularly illustrative as it clearly demonstrates that Sky is unwilling, even where it is the retailer, to promote and supply its premium channels at attractive prices on other platforms. Sky clearly prefers its own DSat platform;

(c) if Sky had a direct relationship with viewers on other platforms, it would have a significant informational advantage it could use in encouraging viewers to switch to a Sky DSat service;

(d) platforms will be deprived of a certain degree of pricing flexibility that Sky is able to take advantage of on its own DSat platform.[25] In addition to this concern about pricing flexibility, Virgin Media notes a range of retailers selling Sky premium sports and movies channels may also lead to increased package innovation (which is a factor in the criteria for assessing pay TV as identified by Ofcom[26]). In this regard Virgin Media specifically refers to the bundles of services available on its own platform (including "triple play" and "quad play" services) and how this benchmark has put pressure on Sky to innovate to match this broad range of complementary services. Further, Virgin Media has also innovated in relation to the make-up of packages. In this connection, Virgin Media has included in Virgin Media's XL package Setanta's premium sports channel. Virgin Media is concerned that if Sky was the only retailer of Sky Sports and Sky Movies channels, there would be less scope for these types of innovations, to the ultimate detriment of consumers; and

(e) a reduction in the number of retailers decreases the chances that other viable bidders may build up retail subscriber bases and therefore be in a position to bid for content rights in the future.

21. **Do you agree with our analysis of the profitability of Sky's wholesale premium business?**

21.1 Virgin Media has not considered Ofcom's analysis of the profitability of Sky's wholesale premium business.

Effects on consumers

22. **What is the effect on consumers of the current situation with regard to access to premium content, now and in the future?**

22.1 Virgin Media responds to this question in its responses to questions 23, 24 and 25 below. Virgin Media notes, however, that the negative effect on consumers as regards access to premium content, as described in more detail below, will continue in the future unless Sky's incentive and ability to engage in foreclosure is addressed. Virgin Media considers that Sky's incentives and ability to engage in foreclosure can only be addressed by regulatory intervention.

23. **Do you agree with our analysis of the current situation with regard to choice, innovation, pricing and consumer satisfaction?**

23.1 Virgin Media agrees with Ofcom's findings that:

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24 Second Consultation Document, paragraph 6.120.

25 Second Consultation Document, paragraphs 6.129 to 6.130.

26 See Second Consultation Document, paragraph 2.50.

(a) in relation to choice of platform and content, "*the most obvious manifestation of reduced consumer choice is the restricted availability of Sky's premium content on other platforms*";[27] and

(b) in relation to innovation, "*we have seen much less strong development in the UK of the kinds of platform enhancements that are better suited to non-satellite platforms – especially those interactive services which play to the strengths of IPTV and cable networks*".[28] In addition, Virgin Media agrees that consumers are being denied the ability "*to choose… the retail product that best serves their needs*"[29] due to the lack of packaging innovation.

23.2 Virgin Media notes that Ofcom has been unable to draw a conclusion in relation the pricing of pay TV services in the UK.[30] However, Virgin Media remains convinced that pay TV prices are higher than they would be in a competitive market.

23.3 For a more detailed discussion on consumer harm, especially in relation to innovation, choice and pricing, Virgin Media refers to Part 4 of the July 2007 Joint Submission and section 4 of the Virgin Media Response.

23.4 In relation to consumer satisfaction, Virgin Media reiterates its concerns as set out in paragraphs 4.6 to 4.9 of the Virgin Media Response. In particular, Ofcom's analysis fails to provide any information on customer satisfaction levels which might otherwise prevail under more competitive market conditions. Further, the results are biased as they only relate to consumers who have voluntarily opted to purchase pay TV services, which is bound to reflect their valuation of pay TV.

24. **How would you see differently the future of pay TV as outlined in our "forward look"?**

24.1 In addition to Ofcom's observations in relation to the future of pay TV as outlined in its "forward look", Virgin Media would emphasise that the innovations referred to Ofcom all depend on access to attractive content.

25. **Would you agree with our analysis of the likely effects of restricted distribution of Core Premium content on consumers?**

25.1 Virgin Media agrees with Ofcom's observations and reiterates that without access to attractive content, i.e. premium sports and premium movies content, there will continue to be adverse effects on consumer benefits (in terms of reduced innovation, choice and efficiency).

25.2 For a more detailed discussion on consumer harm, especially in relation to innovation, choice and pricing, Virgin Media refers to Part 4 of the July 2007 Joint Submission and section 4 of the Virgin Media Response.

Remedies

Virgin Media's observations on Ofcom's proposed remedies are set out in detail in Sections 3 to 10 of this Submission. Virgin Media has not, therefore, addressed separately any of questions 26 to 45.

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[27] Second Consultation Document, paragraph 7.32.

[28] Second Consultation Document, paragraph 7.47.

[29] Second Consultation Document, paragraph 7.54.

[30] Second Consultation Document, paragraph 7.79.