

1. Welcome

I welcome the consultation by Ofcom on its role in furthering the interests of citizens.

I am glad that Ofcom recognises that it has a role to further the interests of citizens, as well as consumers, and that these interests are often different and that there may be tensions between them.

I hope that in responding to future consultations; Ofcom will explicitly identify citizen interests as distinct from consumer interests (and from producer interests, especially commercial interests which it is not the role of Ofcom to further.).

I welcome the statement,

“Where intervention is needed, the rationale is that there are certain outcomes required by society which would not be delivered by markets alone. This might be described as the broader public interest or citizen interest.”

This statement has particular importance for Ofcom intervention within the market for Digital Terrestrial Television and to a lesser extent, Cable Television, given the drastically limited availability of bandwidth on DTTV and the current unbundled nature of cable TV services in the UK.

2. Successful market intervention by the ITC to restrict Pay TV on DTTV

The decision by the ITC to restrict Pay TV on the three Multiplexes surrendered by ITV Digital/OnDigital (following the failure of an ambitious Pay TV offering which included more of Sky's Sports Channels and Film Channels than are proposed for Picnic) and to encourage a predominantly Free to Air service, Freeview, was a clear example of market intervention in order to further the public interest / citizen interest.

That decision ensured far more efficient use of the very restricted bandwidth available to DTTV than the previous, approximately ½ and ½ FTA/Pay TV balance.

The predominately FTA model successfully succeeded in driving up digital penetration in preparation for DSO and provided citizens, including those on low income, with a plurality of news channels, additional sporting coverage

(a feature of Public service broadcasting that commercial interests and Ofcom seem determined to exclude from any definition of PSB, despite the existence of Listed events reflecting Government determination to see major sporting events freely available to citizens and not just consumers with sufficient disposable income),

and children's programming.

3. Ofcom market intervention to ban “Junk Food” advertising

A further example of market intervention to achieve broader citizen interest has been the additional restrictions placed upon advertising of “junk food” during programming aimed at children.

Here the market intervention by Ofcom has driven children’s programming off of ITV1’s weekday afternoon schedule leaving analogue viewers with less access to children’s programming than before.

Given the high penetration of multi-channel TV amongst households with children under 16 however, the availability of CBBC, Cbeebies, the Milkshake strands on five and fiver, NickJr on TMF, (and on DTTV outside Wales, CITV) as well as S4C’s children’s programming strand, has meant that the immediate effect has not been an adverse effect on the provision of childrens’ programming but Ofcoms concerns for the future are well founded.

4. Ofcom Consultation on removal of Sky Channels from Freeview

Ofcom is currently consulting upon a proposal (Picnic) from BskyB and NGW to remove Sky News, Sky Sports News and Sky 3 from Freeview, and to use the bandwidth to simulcast a number of subscription channels that are already available to potential subscribers via satellite as part of much bigger packages that can never be matched on DTTV.

In opposing this proposal I raised the duty of Ofcom to further the interests of citizens as opposed to consumers, and I feel that my submission may have lead to the current consultation.

If Ofcom is to carry out its duty in regard to furthering the interests of citizens, the proposal to remove Sky News (RTS News Channel of the year), and to a lesser extent Sky Sports News and use the bandwidth for subscription services, should be rejected.

I have suggested that Sky News should be offered Public Broadcaster status in order to reduce the costs to Sky of broadcasting on DTTV, although as this is not in OFCOM’s gift, this suggestion may not find favour.

If Sky does decide to remove their FTA channels from Freeview, the bandwidth should not be used for pay TV, but should be used to provide alternative News and Sports News programming for all citizens rather than a few thousand subscribers.

I have suggested that CNN, France 24 (English), Euronews or AlJazeera (English) be offered bandwidth on DTTV if Sky News is no longer made available FTA to citizens in order to provide plurality of news programming (a specific Ofcom duty) in my submission to the consultation on the removal of Sky News, etc from Freeview.

I am pleased that following my suggestion, **Euronews submitted a request for carriage on Freeview, as a PSB to Ofcom.** I support this request and call upon Ofcom to consult on the desirability of Euronews being carried as a PSB on Freeview.

Given this offer, Ofcom will fail in its duty to citizens, if Sky News is not replaced by at least one other news provider on Freeview.

With regard to Sports News programming, there are two potential replacement providers, Eurosport News and Setanta Sports News who should be offered a slot if it is vacated by Sky Sports News.

It may be however that the BBC could be persuaded to convert its increasing use of the interactive features (red button) for BBC Sport into a linear BBC Sports channel.

I therefore urge Ofcom to approach the BBC to see if they would be prepared to launch a BBC Sports channel in the interests of both citizens and consumers.

I commented in my submission on the removal of Sky channels from Freeview that the loss of Sky 3 should not concern Ofcom. This remains my position.

However, if Ofcom supports citizens and consumers and therefore does not agree to the Picnic proposal, and Sky removes its channels from Freeview there is one, as yet unlaunched, channel that would merit carriage as a replacement, RTE International, as well as the Community Channel and Teachers TV, which have very limited carriage on Freeview.

I therefore call upon Ofcom to consult on the inclusion of RTE International on Freeview, as well as on the extension of the broadcast hours of Teachers TV and the Community channel on Freeview

5. Conclusion

Ofcom should recognise the success of market intervention in support of the interests of citizens that occurred when DTTV was restructured to become a predominantly Free to Air service and not seek to undermine Freeview.

Ofcom should as part of its duty to further the interests of citizens, and to a lesser extent consumers, but not commercial interests,

- 1. Reject proposals by BskyB and NGW to remove Sky News, Sky Sports News and Sky 3 from Freeview and to retain the use of the bandwidth for Pay TV**
- 2. Seek to retain Sky News on Freeview as a PSB if Sky withdraw from Freeview**
- 3. Consult on the proposal by Euronews that it become a PSB and obtains carriage on Freeview**
- 4. Consult on the provision of a linear BBC Sports channel.**
- 5. Consult on the inclusion of RTE International in the Freeview service**
- 6. Consult on the extension of broadcasting hours of Teachers TV and the Community Channel on Freeview**