

Organisation (if applicable):

ITV plc

Ofcom may publish a response summary:

Yes

I confirm that I have read the declaration:

Yes

Additional comments:

ITV welcomes the opportunity to respond to Ofcom's Review of Sky's Access Control (AC) Services Regulation, by which regulation of access to interactive services is imposed on Sky's satellite platform.

We understand that Ofcom considers it necessary to remove the existing Continuation Notice, but before removing the Notice Ofcom has to decide whether to accept Sky's voluntary commitments (which would offer a degree of protection only to existing customers), or to impose replacement access-related conditions (which could protect all customers - both existing and future new customers).

As Ofcom is aware, ITV is not currently a user of AC services from Sky. As such, we do not offer specific answers to the consultation questions below, but instead offer some broader comments relating to the future of the regulation in this area.

We note that demand for interactive services has declined, and that Sky claims that the increasing take-up of internet services means that the interactive services delivered via Sky's set top boxes (STBs) are "virtually obsolete" (as cited at paragraph 2.25 of the 2013 consultation).

However, this does not mean that access-related conditions are no longer required in this area. In particular, we note Ofcom's comment at para 3.24 of the current consultation that "second screens, additional EPG listing or smart TVs are [not] likely to provide suitable alternatives to access to the Sky APIs for alternate videostreams."

As such, although demand for interactive services subject to AC conditions may have declined over recent years, it is eminently possible that demand for other relevant services could increase over the coming years. In particular, in an increasingly connected TV world, new on-demand and personalised services may benefit from access to Sky's APIs.

Such access is particularly important given the sheer scale of Sky's satellite platform. Used in over 9m UK homes, Sky is by far the largest pay-TV platform in the UK - more than twice the size (in terms of household take-up) of its nearest pay-TV competitor in Virgin Media. For content and service providers seeking to deliver applications to UK audiences - and particularly to pay-TV audiences - access to Sky's APIs may prove to be critical.

In these circumstances, the complete removal of access-related conditions would mean that Sky no longer has a requirement to provide FRND access to new third party service providers - with Sky's voluntary commitments only protecting existing customers. As such, in the absence of replacement regulation, Sky would have greater control over access to its STBs in a manner that may allow it to discriminate against competing providers.

As a result, we consider that removal of access-related regulation would enable Sky to engage in discriminatory behaviour in future, in a way that would be detrimental to consumers. We therefore consider that, in the event that Ofcom decides to remove the existing Continuation Notice, it should impose replacement access-related conditions that require Sky to provide FRND access to new - as well as existing - competing customers who seek to make use of Sky's APIs.

Question 1: Do stakeholders agree with our assessment of demand for and potential alternatives to Sky's AC services?:

Question 2: What are stakeholders' views of Sky's proposed commitments?:

Question 3: Does the provision of enhanced TV services via Sky's AC services result in benefits for end-users and competition, efficiency, innovation and investment benefits? :

Question 4: What is your view of the case for replacement access-related conditions? :

Question 5: Do you consider that the proposed conditions would secure effective access to Sky's AC services to allow the provision of enhanced TV services? Please give your reasons. :

Question 6: In light of Sky's proposed commitments, do you consider that it is necessary to impose access-related conditions on Sky to secure the continued provision of enhanced TV services? Please give your reasons. :