RESPONSE TO OFCOM'S CONSULTATION ON
"COMPETITION ISSUES IN THE UK TV ADVERTISING TRADING MECHANISM"

A. Overview

1. Sky considers that the current system of trading of TV advertising is well-balanced and delivers real benefits to advertisers, broadcasters and viewers alike. There is transparency as to the price at which Sky Media sells TV advertising and advertisers have flexibility as to how they choose to purchase airtime: on an umbrella or line-by-line basis via the agency, or direct. Buyers are able to switch (and to credibly threaten to switch) their TV advertising expenditure and do in fact do so. They also benefit from economies of scale and scope in the sale and purchase of TV advertising, have realised significant price reductions, and pay relatively low prices compared with elsewhere. The sellers of TV advertising realise economies in selling across their channel inventory. TV advertising revenues, and the ability to forward plan on the basis of them when making programming investments, is important to broadcasters; this is true of pay TV broadcasters like Sky[1] and the broadcasters on whose behalf Sky Media sells TV advertising, as well as the commercial FTA broadcasters.

2. TV advertising is adapting to the challenges it faces, from new means of delivering and consuming content and from online advertising. Neither the way TV advertising is sold currently, nor the current market structure, is holding up change.

3. So in short, and in Ofcom's words, we consider that the TV advertising trading system is already reasonably efficient, delivers broadly what advertisers want and is sufficiently flexible to accommodate changes going forward whilst also allowing innovation at the margins[2]. The current system does not give rise to "significant" adverse effects on consumers either "through higher prices, lower quality, less choice or less innovation"[3]. Accordingly, a reference to the CC is unmerited, and the burden of it would be disproportionate, both on stakeholders and on public expenditure.

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[1] TV advertising revenue comprises a significant proportion of the overall funding of Sky's basic pay, or general entertainment channels (such as Sky1, Sky Living) and in turn makes an important contribution to both Sky's existing (this year, Sky will spend £380m on British programming for its wholly owned channels, excluding sports rights and the circa £350m support Sky provides to partner broadcasters such as Discovery and History) and future British programming investment (Sky has recently announced that it intends to grow its investment in British content to £600m a year by 2014, including more investment in home-grown drama, comedy and arts programming).

[2] Paragraph 6.67 of Ofcom's consultation document "*Competition issues in the UK TV advertising trading mechanism*" of 10 June 2011, referred to throughout as the "condoc", with paragraph references being to the condoc, unless otherwise stated.

[3] OFT guidance on making market references – see further paragraphs 7 and 8 of this response.

B. Introduction

The test for reference

4. As Ofcom notes[4], disquiet has been expressed at various times with the way TV advertising is traded, most recently by the House of Lords, leading the Government to respond that a "*highly likely*" outcome of Ofcom's present review would be a referral (although it is not clear on what evidence or analysis the Government reached such a view)[5].

5. Whilst disquiet has been expressed, we question whether it has ever been founded on a rigorous assessment of the evidence. Much of the disquiet seems borne of a sense that the way TV advertising is sold in the UK is unusual, in that, for the most part, commitments of TV advertising expenditure are share, rather than volume, related[6]. We have not conducted an international comparison of the way TV advertising is sold, but we understand from Ofcom's high level analysis that the UK model is neither exceptional nor the norm. This to us demonstrates the fallacy of making such comparisons: the more relevant question, in determining whether to refer the market to the CC, is whether the market is working well for consumers, which we believe it is.

6. In Ofcom's condoc, it explains that:

> "*The aim of this consultation is to encourage stakeholder views on the nature and scale of the competition concerns and any offsetting benefits in order to help us conclude whether a market reference is appropriate*"[7].

7. Ofcom has also expressed the view that the legal threshold for reference is low[8]. Indeed, it need not conduct a full market investigation (although it can if it wishes). Nevertheless, Ofcom:

> "*has to address the matter sufficiently to decide whether there are reasonable grounds "to suspect", and sufficiently in order to consider the question of undertakings under s.154 of the Act in lieu of making a reference*"[9] and, moreover, it should

> "*2.27 only make a reference when it has reasonable grounds to suspect that the adverse effects on competition of features of a market are **significant**. In making this assessment it will consider whether these suspected adverse effects are likely to have a **significant detrimental effect on customers through higher prices, lower quality, less***

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4 For example at paragraph 1.8.

5 "*It is a highly likely outcome of this analysis [of whether to refer or accept undertakings in lieu] that Ofcom will pass the matter to the CC which will carry out a more formal review of competition in TV advertising market as part of a market investigation*" – http://www.culture.gov.uk/images/publications/govtresponse_cm8057.pdf, page 5.

6 Paragraph 5.77

7 Paragraph 1.7.

8 For instance at the meeting with COBA on 27 June.

9 Paragraph 7, of the Competition Appeal Tribunal's judgment in '*The Association of Convenience Stores v Office of Fair Trading*', Case number: 1052/6/1/05 http://www.catribunal.org.uk/237-616/1052-6-1-05-The-Association-of-Convenience-Stores.html

***choice or less innovation**. Where it seems likely that this effect is not significant the OFT will normally take the view that the burden on business, particularly in terms of management time, and the public expenditure costs of an investigation by the CC are likely to be disproportionate in relation to any benefits that may be obtained from remedying the adverse effects.*" (emphasis added) and

"2.29 ...*Where the OFT is confident that offsetting customer benefits exceed the likely detriment from the adverse effect on competition it will not make a reference.*"[10]

8. In considering whether there are reasonable grounds to suspect that any feature of the market distorts competition, we trust, therefore, that Ofcom will wish to satisfy itself, beyond the historical speculation/disquiet (mainly from those outside the industry), whether there is, on the available evidence, good reason to suspect "*adverse effects on competition of features of a market*" that are "***significant***", in that they are capable of having a "***significant** detrimental effect on customers through higher prices, lower quality, less choice or less innovation*" (emphasis added). We note that, only if Ofcom suspects that there are significant detriments, need it, per the Guidance, weigh the benefits against suspected detriments, to determine whether to exercise its discretion to refer.

9. We understand why Ofcom is conducting the present review, following interest from the House of Lords and the Government in doing so, and at a time when the advertising industry appears to be showing signs of recovery from recession. Whether such recovery proves to be lasting cannot be predicted with any certainty. But we can say with certainty that the broadcasting industry is currently experiencing profound change and that this is having a significant impact on TV advertising[11]. To subject TV advertising to the uncertainty of a reference at this time could have profound unintended consequences: in particular, the potential to chill broadcasters' investment in programming, adversely impacting the range, quality and diversity of programming available to viewers (for instance if broadcasters were likely to take fewer risks in programming acquisition); and equally, the risk of distorting, during a period of change, the market's natural responses and stakeholders' ability to compete with the challenges faced, with significant adverse consequences for both advertisers and viewers alike. We welcome, therefore, the fact that Ofcom is approaching the question of whether to refer with an open mind[12] (notwithstanding the Government's previous position).

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[10] OFT's guidance on making market investigation references under Part 4 of the Enterprise Act, http://www.oft.gov.uk/shared_oft/business_leaflets/enterprise_act/oft511.pdf

[11] See further section E below.

[12] As per Sky's meeting with Ofcom on 16 May and COBA's meeting on 27 June. We note at paragraph 6.2 that Ofcom refers to its "*preliminary findings that some of the features of the market may interact in ways which could prevent, restrict or distort competition in relation to the operation of the market for TV advertising in the UK under s131 of EA02*" before referring in paragraph 6.3 to the issues it takes into account, as raised by the CC and the House of Lords inquiry. It is not clear to Sky whether Ofcom bases its "preliminary findings" on the issues raised by the CC, or the House of Lords, or whether it is on the basis of a fresh review and analysis of the evidence. To the extent that Ofcom simply relies on issues previously raised, as noted above, we do not consider those to be well founded. In any event, we trust Ofcom is consulting with an open mind on "*the nature and scale of the competition concerns and any offsetting benefits*" and that is what we address in this response.

Framework for assessment

10. We consider that there continues to be a relevant market at least as wide as the sale of TV advertising in the UK, with an intensifying constraint from online. Regardless of where the exact market boundaries are drawn, we believe it is important, in framing its assessment, that Ofcom has due regard to two matters in particular:

(a) First, as Ofcom recognises[13], given the interdependencies between the two sides of the market, it is important to recognise in the overall assessment of competition, that the intensity of competition between broadcasters for audiences[14], translates into strong competition between broadcasters for advertising revenues which follow those audiences[15];

(b) Second, the significant changes, in particular the shift of delivery and consumption of programming online, and the attendant changes in the sale of advertising including increased competition between broadcasters and powerful sellers of online advertising (such as Google), all of whom are increasingly selling advertising in and around audiovisual programming online[16].

Overview

11. We address in the sections which follow, the three main areas of potential concern identified in the condoc, namely transparency of pricing and ability of buyers to switch, bundling and market concentration, and evolution of the trading model/TV advertising, noting as Ofcom does, the interrelationship between these features.

C. Transparency of pricing and ability of buyers to switch

12. Ofcom expresses potential concern at a perceived lack of price transparency and with the potential for this to limit switching. In respect of media buyers, Ofcom suggests that:

> "*In the UK market for TV advertising the ability to make meaningful price comparisons*

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13 For instance at paragraph 4.21

14 Competition for viewing among broadcasters is intense as a result of: i) the proliferation in the number of television channels available to viewers, both pay and FTA, facilitated by significant technical developments (such as the launch of new means of distribution and the development of existing means), which continue apace; and ii) fixity in the amount of time people spend watching television, in that, whereas the number of channels available in the UK has increased substantially over time, television viewing has remained broadly stable, with broadcasters therefore competing for a relatively fixed amount of viewing with gains by one broadcaster coming at the expense of others (in effect a "zero sum game").

15 Given the importance of TV advertising revenues to both pay and commercial FTA broadcasters, this is equally applicable to both – see further footnote 1 of this response.

16 Ofcom is referred to the article on page 17 of the Financial Times on 19 July 2011 entitled "*Facebook ad prices soar as brands shift spending online*", in which Tim Bradshaw, the Financial Times' Digital Media correspondent, reports that "*brands begin to move television and print advertising spending on the world's largest social network, two recent reports have revealed*". The article explores the rapid growth of advertising revenues on Facebook, prompting comparisons with Google, with Simon Mansell, chief executive of TBG, quoted as saying "*The main difference is that this is being fuelled by brand spend rather than [direct] response spend. That is an inflection point for the whole digital market place*".

appears to be limited"[17] and that

"*We would expect that the limitations on the ability of media buyers/advertisers to switch advertising expenditure between broadcasters during the course of the year could restrict competition in this market and reinforce existing market positions*". [18]

13. From Sky Media's perspective, we do not believe that media buyers have limited opportunities to make meaningful price comparisons, or to switch, or that this has resulted in a distortion of competition. On the contrary, buyers are well informed, are able to switch, to credibly threaten to switch, and do in fact switch. Moreover, from the advertiser's point of view, we believe there is significant choice and flexibility, to enter into umbrella or line-by-line deals via media agencies, or to deal directly with sales houses, with different benefits from each.

14. We provide a high level summary of how Sky Media currently sells advertising in Annex 1[19]. From this, Ofcom will observe that Sky Media, as one of the smaller sales houses, is flexible as to the type of deal it will enter with agencies and advertisers alike, in order to maximise advertising revenues. [REDACTED].

15. Under line-by-line deals with media agencies, the agency commits a minimum share of broadcaster's expenditure, or "SOB" (itself committed in line with audience delivery) per advertiser [REDACTED]. Sky Media's pricing mechanic is the same under umbrella deals; the principal difference is that the SOB is aggregated across the agency's portfolio, rather than specific to each individual advertiser. [REDACTED] Under all such deals, Sky Media's pricing for each target audience sold by it is transparent, notwithstanding that the main trading currency is SOB, rather than price per unit, or slot. This is the case throughout the deal season[20], and at the end of the deal season[21], providing further transparency to agencies and advertisers.

16. Advertisers also have choice and flexibility:

    (a) they can choose to purchase TV advertising via an agency under an umbrella or line-by-line arrangement, or they can purchase directly from the sales house.

    (b) since the main trading currency, SOB, is predicated on agreeing a share of expenditure to be committed to the sales house, rather than absolute expenditure, advertisers have the freedom to vary their absolute expenditure (for instance if they are forced to halve their TV advertising budgets in a period of recession).

    (c) Advertisers are also able to flex the level of their SOB commitments, under umbrella and line-by-line deals, within certain parameters.

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17 Paragraph 6.27.

18 Paragraph 6.35.

19 As requested by Ofcom on our call of 12 July.

20 As there is regular reconciliation of sales house prices to changes in audiences – see further paragraph 2 (d) of Annex 1 of this response.

21 This is because sales house delivery of the deals struck with agencies is tightly controlled by media auditors – see further paragraph 34 of this response.

(d) [REDACTED]

(e) [REDACTED]

(f) Although TV advertising is typically sold on a SOB basis [REDACTED]

(g) Sky Media sells a range of non-spot advertising (for example green button, VOD, mobile TV and online advertising as well as advertiser funded programming and product placement) [REDACTED]

17. We believe that ultimately, the combination of transparency, ability to switch (and to credibly threaten to switch) expenditure and choice for advertisers, is likely to deter agencies from failing to optimise the delivery of their clients' advertising campaign objectives. Accordingly, we doubt that any material misalignment of incentives arises as between the sales houses and buyers on the one hand, and advertisers on the other[22].

18. Sky Media, moreover, does not feel constrained in its ability to trade, line-by-line with the agency/advertisers [REDACTED] or in its ability to sell advertising outside the SOB currency [REDACTED], by the way TV advertising is currently sold.

Switching

19. We discuss below how the role of media agencies is a potent constraint, at least on smaller sellers of television airtime like Sky Media. In addition to credible threats to switch expenditure, there is evidence of actual switching by agencies: for instance, Aegis did not spend with Channel 5 between January and August 2010, though they have since resolved their differences; similarly, [REDACTED]. As noted above[23], there is also a significant degree of switching by advertisers within agency umbrella or line-by-line deals.

20. So in short, there is transparency as to Sky Media's pricing, for each target audience it sells, and there is evidence of buyer switching both at the macro and micro levels. Moreover, advertisers have flexibility as to how they choose to purchase airtime: on an umbrella or line-by-line basis via the agency, or direct from the sales house.

D. "Bundling" and market concentration

21. There is a brief discussion in the condoc of the present market structure and its possible effects[24], followed by a brief discussion of "bundling" of airtime[25] and the role of media buyers[26].

Market structure and effects

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[22] Paragraphs 6.58 to 6.65.

[23] See paragraphs 16 (b) to **Error! Reference source not found.** of this response.

[24] Paragraphs 6.38 - 6.50.

[25] Paragraphs 6.51 to 6.55.

[26] Paragraphs 6.56 – 6.65.

22. As recognised by Ofcom[27], and recently by the CC[28], ITV continues to enjoy a position of significant market power, stemming from the merger of the previously independent Carlton and Granada sales houses in 2003, which enhanced ITV's ability to leverage its unique ability to deliver mass audiences on ITV1[29]. This led the CC to conclude recently that:

> *"the essential reason for CRR remains: to protect advertisers and other commercial broadcasters from the enhanced market position created by the merger of Carlton and Granada"*[30].

23. ITV's enduring market power is manifested, in particular, in:

    (a) its share of net advertising revenue (or SONAR), which it has maintained at very significant levels, notwithstanding the operation of the CRR; and

    (b) its ability to increase its ratio of revenue to impacts over time, notwithstanding the launch of its sister channels (whose ratio of revenue to impacts is less than that of ITV1) and the operation of CRR (which gave buyers the right to withdraw expenditure from ITV in line with falls in ITV1's share of commercial impacts, or "SOCI"), both of which, all things being equal, would have been expected to have reduced ITV's ratio[31].

24. ITV's position is likely to have been strengthened further by the variation of CRR to allow ITV to include +1 and HD versions of ITV1 in its audience share (with the effect of increasing its qualifying SOCI and thereby SONAR, in a zero sum game at the expense of other sales houses).

25. Channel 4 remains significantly larger than Sky Media in share of revenue terms, and has strengthened its position with the sale of TV advertising on the UKTV Channels in a long term deal from 2011.

26. Since 2010, Sky Media has additionally sold TV advertising on behalf of the Viacom channels, and since 2011, has sold TV advertising on what were formerly the VMtv channels, acquired by Sky from Virgin Media in 2010. These deals have enabled Sky Media to sell, and its customers to buy, airtime across a wider portfolio of channels, with strong brands, and a broader range of audience demographics, providing advertisers with greater weight of communication (which as explained more fully below, they value highly). Thus Sky Media is now an improved alternative to advertisers and a marginally more effective competitor to ITV and Channel 4.

27. Ofcom considered these changes in its Statement on the Airtime Sales Rules ("ASR"),

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27 Paragraphs 6.40-6.43.

28 http://www.competition-commission.org.uk/inquiries/ref2009/itv/pdf/final_report.pdf, see for example paragraph 5.167.

29 See paragraph 2.132 of the CC's final Report.

30 See the CC's News Release of 12 May 2010 at http://www.competition-commission.org.uk/press_rel/2010/may/ITV_CRR_press_release_final_report.pdf.

31 It should not be inferred from this that CRR has not worked; it has, as ITV's power ratio could have been expected to have been higher, and to have grown at a faster rate, without it.

concluding:

> *"Ofcom recognises the consolidation that has taken place across sales houses over the last year. However we still believe that the longer-term trends since 2003 are consistent with increased competition across the sector. Furthermore, it is not clear that recent consolidation between sales houses will necessarily lead to less competition. While this is possible, it may also be the case that a smaller number of more evenly-sized sellers – in terms of more similar market shares, with strong brands and with a wider portfolio of channels and a broader range of audience demographics - could bring a more competitive environment than one characterised by one large sales house and a series of much smaller sales houses"* [32].

28. We agree entirely that longer term trends and the current structure of the market with a smaller number of more evenly-sized sellers are consistent with increased competition. As noted above[33], the long-term trend is for intense competition for viewing, which in turn translates into vigorous competition between broadcasters for advertising revenues following that viewing. In clearing (unconditionally) Sky's acquisition of the Virgin Media channel business (and related advertising sales representation), the OFT moreover endorsed Ofcom's view in the ASR review and recognised that media buyers could be in a strong bargaining position relative to Sky Media[34].

29. Indeed, the services provided by media agencies to their clients – including negotiation with airtime sales houses on their behalf – is a very real and potent constraint, at least on smaller sellers of TV advertising like Sky Media. Nearly all agency deals come up for negotiation at the same time each year, allowing agencies easily to compare the relative performance of each sales house and to trade each one against the others. Agencies are assisted in making this evaluation and trade off by the high degree of transparency in television advertising with respect to: (i) the relative share of advertisers' expenditure achieved by different advertising sales houses; and (ii) the impacts delivered by different television channels, on the basis of which that expenditure is allocated. The prevailing elements of transparency facilitate switching (and credible threats of switching), and thus enable the exercise of substantial countervailing buyer power by media agencies, who have consolidated into a small number of buying groups over time[35].

30. The delivery by sales houses of deals struck with agencies is also tightly controlled by media auditors[36]. This acts as a significant constraint on the bargaining power of sales houses during the annual negotiation with agencies. If a sales house has not delivered

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32 Paragraph 2.32, http://stakeholders.ofcom.org.uk/binaries/consultations/asr/statement/statement.pdf.

33 See paragraph 10 (a) of this response.

34 See paragraph 49, http://www.oft.gov.uk/shared_oft/mergers_ea02/2010/sky-virgin.pdf: "*The OFT notes that the transaction results in a minimal increment in Sky's market share for the sale of television advertising. It also notes Ofcom's recent ASR that did take into account the absorption of IDS by Sky and Channel 4 Sales and again did not consider that significant competition concerns would arise out of this*"....."*Moreover, while the OFT did not find it necessary to conclude in this respect, it does note that media agencies have also experienced considerable consolidation and that they could be in a strong position to resist any attempted price increases by Sky.*"

35 The number of buying points has reduced from around 24 in 2002 to 5 main buying groups today, accounting for some 85% of total TV advertising expenditure.

36 See further paragraph 34 of this response.

on these metrics, as audited, they can expect a tough negotiation with the agencies.

31. As such, we do not consider the current structure of the market, or Sky Media's position within it, to adversely affect competition.

Benefits of the way TV advertising is sold

32. From the advertiser's perspective, the principal benefit of TV advertising is its ability to provide weight of communication with a large number of would-be purchasers (often referred to as 'coverage' or 'reach'[37]). It is important to recognise this, as it explains the enduring market position of ITV (in particular its unique ability to deliver mass audiences on ITV1 providing rapid coverage) as well as the underlying benefits of economies of scale and scope in the sale and purchase of TV advertising across different dayparts, programmes, or channels (collectively the 'inventory').

33. We consider economies of scale and scope to be a more accurate description than "bundling". In an economic sense, bundling usually refers to the situation where different products are sold in a bundle only (pure bundling), or individually and in a bundle with the price of the bundle being cheaper than the sum of the individual products (mixed bundling). In TV advertising, however, sellers are not offering different products at cheaper bundled prices, rather they are offering a particular weight of communication, by target audience, at different prices depending on the economies the seller is able to realise and the share of expenditure committed (being more akin to a volume discount than to mixed bundled pricing). Scale economies are derived from selling more airtime across the channel schedule, resulting in lower average costs. Economies of scale and scope are also realised from the efficient allocation of 'spots' across the channel portfolio, enabling optimal delivery of the target audiences sought by advertisers at the lowest prices, whilst freeing up inventory for additional sales. The advanced commitment of SOB also assists broadcasters in planning their content investment (compared with, say, 'burst-by-burst' expenditure within the year).

34. From the buyer's perspective, the ability to purchase across the seller's inventory is important and highly valued. This is reflected, for example, in the way in which delivery of campaign objectives is measured by media auditors. They use a scoring system weighted in favour of the objectives of most importance to the advertiser, usually weighted heavily in favour of reach[38], reflecting the importance of being able to reach as many of its target audiences, as rapidly as possible, thereby reducing wastage and improving efficiency/cost-effectiveness of campaigns.

35. By purchasing across the seller's inventory, agencies, to the benefit of their advertiser clients, are also able to realise substantial transaction efficiencies by not having to purchase individual spots, dayparts or channels and the unwieldy micro-management of individual client campaigns that this would entail. That said, it is important to recognise that whether advertisers choose to purchase airtime via an agency or directly, they are not forced to purchase inventory that they do not want: for instance, they are free to

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37 That is, the proportion of the target audience viewing an advertisement one, or more, times.

38 Above other criteria such as 'frequency' (i.e. the number of times an advertisement is viewed within a specified period), or presence in high-rated programmes.

specify a narrower set of channels on which to advertise their brands[39].

36. It is clear that advertisers derive significant benefits from using buying agencies. Indeed, it seems unlikely that advertisers, many of whom are highly sophisticated public companies with large marketing departments, and increasingly, sophisticated procurement departments, would use media buying agencies unless they added measurable and real value through, inter alia[40], obtaining lower prices and realising lower transaction costs for their clients than they would be capable of achieving for themselves.

37. Indeed, agencies have secured very substantial reductions in price for their clients in recent years. During the period 2000 to 2010, total broadcast impacts have increased by some 49.2%[41], price has decreased by some 43.7% in real terms[42] and revenue has decreased by some 16% in real terms[43]. This decline in investment has arisen as agencies (on behalf of their advertiser clients), observing a steady increase in supply, have anticipated that they can achieve the same weight of impacts/communication for their clients, whilst spending less in real terms (and perhaps more on other advertising media such as online). The decline in the average price of UK TV advertising and its relative good value compared with other countries is shown in the international comparison conducted by WARC provided at Annex 2.

E. Evolution of the trading model

38. As Ofcom rightly acknowledges, the broadcasting industry has been and is experiencing considerable change. In Sky's view, changes in distribution and consumption of audiovisual programming are having a significant impact on television advertising. With more high quality audiovisual programming available online, the perceived advantages of television's audiovisual richness over online are declining. Whilst television advertising has a relatively sophisticated way of measuring viewing, this is only a proxy for its effectiveness in driving sales, whereas the tools available to measure the effectiveness, or "accountability" of online advertising in driving sales have contributed to its recent relative success. Traditional distinctions between television and the internet and between the advantages of television and internet advertising are blurring[44]. It is important to recognise that traditional broadcasters, along with newer broadcasters, technology companies, and powerful companies traditionally from the online world (such as Google, with a proven track record in online search and display advertising), now compete online in the provision of an increasing range and quality of audiovisual

39 [REDACTED]

40 Their services are wide ranging, but fundamentally, agencies provide a media plan capable of satisfying an advertiser's campaign objectives, and a proposal for executing that plan in the most cost-effective manner. Their advice will include an evaluation of the most effective media mix, and to the extent that the media mix includes television, an evaluation of the effectiveness of advertising on different television channels.

41 From £582bn to £868.2bn, reflecting the intensity of competition for audiences between broadcasters, described at paragraph 11 of this response.

42 From an average of £6.79p to £3.82p at year 2000 constant prices (taking into account CPI index 2000-2010); or £6.79p to £4.70 in actual terms - a 31% decline.

43 From £3.95bn gross in 2000 to £3.32bn gross in 2010 at year 2000 constant prices. Revenue has remained relatively constant in nominal terms, from £3.95bn gross to £4.08bn gross in 2010.

44 Paragraph 6.66.

material, as well as the sale of advertising around that material.

39. For many years, the sale of television advertising involved only the sale of spots and sponsorship on linear television channels, but faced with the above changes, sales houses have adapted their activities. Sky Media, for instance, sold interactive advertising behind the red button (although this has now ceased), and sells long form green button advertising, advertising in and around VOD, advertising on mobile TV and now also online advertising. Sky has also developed (and continues to develop) the Sky View audience measurement system which attempts to measure and demonstrate the accountability of television advertising, with a view to being better able to compete with the tools available online[45]. Sky is also developing functionality that will enable the delivery of "targeted substitutional advertising" ("Sky AdSmart"), with a view to improving the effectiveness of television advertising to the benefit of advertisers. [REDACTED]

40. These adaptations tend not to fit within the traditional means of selling TV advertising, but the important thing to recognise is that they are taking place and the rate at which they are doing so is not held up by the way TV advertising is currently sold. Indeed, Sky would be unlikely to make the necessary investments to develop innovations like Sky View and Sky AdSmart if this was the case[46].

41. Neither do we believe that other sales houses are prevented from adapting and innovating. Whether ITV has innovated to the same degree as Sky, we do not know. But, in Sky's view, ITV is not prevented by CRR from doing so, nor is the market as a whole. CRR formalises the relationship between ITV1's SONAR and SOCI. If CRR was removed, we believe ITV would continue to trade in broadly the same way as it does today, because that is what is most profitable for it. Other sales houses trade in a similar way, not because of CRR, but because the system has evolved in this way and because it serves advertisers, broadcasters and viewers well.

42. The perennial question arises, were CRR to be removed, or were the TV advertising trading mechanism to be changed, what would the alternatives be, and would customers be any better served (bearing in mind the benefits, including reduced and comparatively low prices, described above[47])? It does not strike us that regulatory intervention by way of a reference is best, or even well, placed to seek to determine such questions; indeed if there were genuine questions, we believe that the market would be best placed to respond. Intervention by way of reference, on the other hand, runs the risk of unintended consequences, such as chilling investment in programming to the detriment of viewers and distortion, at a time of considerable change, of the market's natural responses to the challenges it faces.

F. Conclusion

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45 For instance, Sky View has a large sample of around 38,000 homes and captures viewing to the second, rather than minute, providing more robust and accurate viewing data. These data are also linked to household purchase data, enabling Sky to identify consumer groups who are high responders to television advertising (for example, enabling Sky to identify that households, rather than broader demographics like "housewives", that watch E4 have a high propensity to purchase Jaffa cakes).

46 Such investments are a further reflection of the importance to Sky of TV advertising revenues.

47 See paragraphs 32 to 37 of this response.

43. As the above demonstrates, both advertisers and viewers are well served by the current system of selling TV advertising in the UK. Neither this, nor the current structure of the market, adversely affects competition. Neither the way airtime is traded, nor CRR, are preventing, or holding up innovation. Accordingly, the current system does not give rise to "significant" adverse effects on consumers either "through higher prices, lower quality, less choice or less innovation". A reference to the CC is unmerited, and the burden of it would be disproportionate.

21 July 2011

Annex 1: high-level summary of how Sky Media sells TV advertising

Agency deals

1. As one of the smaller sales houses in the sale of TV advertising, Sky Media is flexible as to the types of deals it is willing to enter with agencies and advertisers alike, in order to maximise advertising revenues. [REDACTED]

2. Under such deals, Sky Media's pricing is transparent, notwithstanding that the trading currency is share of advertisers' broadcast expenditure ("***SOB***"), rather than price per unit, or slot.

   (a) Line-by-line deals afford advertisers the ability to match a contracted investment level (the SOB) with a contracted price, per demographic.

   (b) [REDACTED]

   (c) In either case, the agency commits a minimum SOB (which is committed in line with audience delivery[48]) per advertiser [REDACTED] in return for the contracted per demographic prices. As such, there is a direct relationship between individual advertiser share and price.

   (d) [REDACTED]

3. Under line-by-line deals, media agencies thereby have substantial transparency, throughout and at the end of the deal season, as to the prices agreed with Sky Media for each demographic audience sold by it.

4. Sky Media's pricing mechanic is the same under umbrella deals, except that the SOB is aggregated across the agency portfolio, rather than specific to each individual advertiser.

5. Under all agency deals (whether umbrella or line-by-line), the main trading currency is SOB. Since this is predicated on agreeing a share of expenditure to be committed to the sales house, rather than absolute expenditure, advertisers have the freedom to vary their absolute expenditure (for instance if they are forced to halve their TV advertising budgets in a period of recession). Advertisers are also able to flex their SOB commitments, under umbrella and line-by-line deals, within certain parameters[49].

6. [REDACTED]

7. [REDACTED] Sky Media sells a range of non-spot advertising, such as sponsorship, advertising behind the green button (interactive), advertising in and around VOD (eg available via Sky's Anytime DTH service, or via Sky Go), advertising on mobile TV and on TV in commercial premises, online advertising, advertiser funded programming and product placement. [REDACTED]

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48 Audiences delivered are measured and published by BARB, resulting in a high degree of transparency as to sales house/broadcasters' relative performance in terms of audience delivery.

49 [REDACTED]

8. Sky Media does not feel constrained in its ability to trade, line-by-line with the agency/advertisers, or in its ability to sell advertising outside the SOB mechanic, by the way TV advertising is currently sold. [REDACTED]

Direct deals

9. Under a direct deal, the advertiser agrees the terms, including price, at which it purchases airtime from Sky Media, in a similar manner to that under a line-by-line deal, [REDACTED] As with the agencies under line-by-line deals, advertisers have transparency as to the price agreed with Sky Media for each demographic audience purchased. The advertiser also has the ability to agree its own "Quality Caveats" with Sky Media, thus affording it flexibility over other terms.

Annex 2: International comparison of average cost per thousand TV impacts

Global Media Cost Comparison

Cost Per Thousand

			Television Cost Per Thousand US$
Canada	Adults	2006	11.25
Canada	Adults	2007	16.53
Canada	Adults	2008	17.15
Canada	Adults	2009	15.75
USA	Adults	2005	8.22
USA	Adults	2006	8.38
USA	Adults	2007	8.15
USA	Adults	2008	15.75
USA	Adults	2009	30.17
Australia	Adults	2005	14.34
Australia	Adults	2006	13.40
Australia	Adults	2007	19.73
Australia	Adults	2008	14.53
Australia	Adults	2009	16.28
China	Adults	2006	0.69
China	Adults	2007	0.70
China	Adults	2008	0.80
China	Adults	2009	0.82
Hong Kong	Adults	2007	16.61
Hong Kong	Adults	2008	16.64
Hong Kong	Adults	2009	18.19
Japan	Adults	2005	5.07
Japan	Adults	2006	4.77
Japan	Adults	2007	4.76
Japan	Adults	2009	5.08
Malaysia	Adults	2007	1.24
Malaysia	Adults	2008	1.53
Malaysia	Adults	2009	2.04
New Zealand	Adults	2007	6.32
New Zealand	Adults	2008	5.76
New Zealand	Adults	2009	5.63
Philippines	Adults	2008	125.80
Philippines	Adults	2009	91.68
Singapore	Adults	2009	1.28
South Korea	Adults	2006	6.41
South Korea	Adults	2008	10.89
South Korea	Adults	2009	4.68
Taiwan	Adults	2005	4.21

Taiwan	Adults	2006	3.91
Taiwan	Adults	2007	3.53
Taiwan	Adults	2008	3.70
Taiwan	Adults	2009	3.31
Thailand	Adults	2007	2.00
Thailand	Adults	2008	2.01
Thailand	Adults	2009	2.07
Mexico	Adults	2007	6.21
Mexico	Adults	2008	6.83
Morocco	Adults	2008	20.12
Morocco	Adults	2009	21.29
South Africa	Adults	2007	3.06
South Africa	Adults	2008	2.72
South Africa	Adults	2009	2.64
Austria	Adults	2004	18.40
Austria	Adults	2005	15.03
Austria	Adults	2006	14.01
Austria	Adults	2007	15.57
Austria	Adults	2008	15.62
Austria	Adults	2009	19.87
Belgium	Adults	2004	24.92
Belgium	Adults	2005	20.73
Belgium	Adults	2006	20.87
Belgium	Adults	2007	23.24
Belgium	Adults	2008	29.78
Belgium	Adults	2009	23.68
Bosnia & Herzegovina	Adults	2009	11.79
Bulgaria	Adults	2007	2.77
Bulgaria	Adults	2008	3.22
Croatia	Adults	2008	5.27
Croatia	Adults	2009	4.17
Czech Republic	Adults	2004	7.94
Czech Republic	Adults	2005	8.65
Czech Republic	Adults	2006	9.85
Czech Republic	Adults	2007	12.07
Czech Republic	Adults	2008	16.52
Czech Republic	Adults	2009	8.00
Denmark	Adults	2004	10.01
Denmark	Adults	2005	10.52
Denmark	Adults	2006	10.90
Denmark	Adults	2007	11.52
Denmark	Adults	2008	11.68
Denmark	Adults	2009	8.89
Estonia	Adults	2007	7.61
Estonia	Adults	2008	8.60
Finland	Adults	2004	10.52
Finland	Adults	2005	11.56
Finland	Adults	2006	11.55
Finland	Adults	2007	13.48
Finland	Adults	2008	15.43
Finland	Adults	2009	14.64
France	Adults	2004	10.58
France	Adults	2005	10.52
France	Adults	2006	11.13
France	Adults	2007	12.26
France	Adults	2008	7.47
France	Adults	2009	8.11
Germany	Adults	2004	19.97

Germany	Adults	2005	21.11
Germany	Adults	2006	11.62
Germany	Adults	2007	11.13
Germany	Adults	2008	14.94
Germany	Adults	2009	9.84
Greece	Adults	2004	4.91
Greece	Adults	2005	6.09
Greece	Adults	2006	6.03
Greece	Adults	2007	6.96
Greece	Adults	2008	7.27
Italy	Adults	2004	5.25
Italy	Adults	2005	5.64
Italy	Adults	2006	5.79
Italy	Adults	2007	6.32
Italy	Adults	2008	7.37
Italy	Adults	2009	6.17
Latvia	Adults	2006	2.73
Latvia	Adults	2007	3.57
Latvia	Adults	2008	4.42
Latvia	Adults	2009	3.70
Lithuania	Adults	2007	2.93
Lithuania	Adults	2008	3.13
Lithuania	Adults	2009	2.42
Norway	Adults	2004	15.66
Norway	Adults	2005	17.10
Norway	Adults	2006	21.36
Norway	Adults	2007	24.56
Norway	Adults	2008	26.04
Norway	Adults	2009	19.72
Poland	Adults	2004	3.10
Poland	Adults	2005	2.45
Poland	Adults	2008	2.77
Poland	Adults	2009	2.04
Portugal	Adults	2004	5.38
Portugal	Adults	2005	4.36
Portugal	Adults	2006	4.62
Portugal	Adults	2007	4.61
Portugal	Adults	2008	5.25
Portugal	Adults	2009	5.57
Romania	Adults	2007	0.94
Romania	Adults	2008	1.05
Romania	Adults	2009	0.64
Russia	Adults	2004	2.76
Russia	Adults	2005	2.74
Russia	Adults	2006	3.08
Russia	Adults	2007	4.62
Russia	Adults	2008	8.89
Russia	Adults	2009	6.79
Spain	Adults	2004	4.54
Spain	Adults	2005	6.40
Spain	Adults	2006	6.90
Spain	Adults	2007	7.03
Spain	Adults	2008	4.76
Spain	Adults	2009	3.84
Sweden	Adults	2004	12.44
Sweden	Adults	2005	12.74
Sweden	Adults	2006	12.87
Sweden	Adults	2007	14.48

Sweden	Adults	2008	15.00
Sweden	Adults	2009	12.34
Switzerland	Adults	2006	29.92
Switzerland	Adults	2007	33.70
Switzerland	Adults	2008	34.76
Switzerland	Adults	2009	40.44
Turkey	Adults	2004	2.43
Turkey	Adults	2005	2.75
Turkey	Adults	2006	2.13
Turkey	Adults	2007	2.67
Turkey	Adults	2008	2.56
Turkey	Adults	2009	1.20
UK	Adults	2004	10.51
UK	Adults	2005	10.62
UK	Adults	2006	9.91
UK	Adults	2007	9.86
UK	Adults	2008	7.88
UK	Adults	2009	5.71

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