

Title:

Mr

Forename:

Francis

Surname:

Baron

Representing:

Organisation

Organisation (if applicable):

Rugby Football Union

Email:

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

Comments:

Please see the formal written response of the Rugby Football Union submitted by email and post to William Hayter.

Question 1: Do you agree with Oxera's approach to the valuation of Sky's intangible asset base? :

It is not appropriate for us to comment.

Question 2: Do you agree with Oxera's approach to assessing Sky's profitability?:

It is not appropriate for us to comment.

Question 3: Do you agree with our assessment of Sky's weighted average cost of capital? :

It is not appropriate for us to comment

Question 4: Do you agree with the conclusions we draw about Sky's aggregate profitability? :

It is not appropriate for us to comment

Question 5: Do you agree with the conclusions we draw about Sky's profitability at a disaggregated level? :

It is not appropriate for us to comment

Question 6: Do you agree with our characterisation of the relationship between high wholesale prices and retail pricing? :

It is not appropriate for us to comment

Question 7: Do you agree with our view that it would not be more appropriate to proceed in relation to some or all of the matters in question under CA98?:

It is not appropriate for us to comment

Question 8: Do you agree that a wholesale must-offer is in principle the best way of answering our concerns around restricted distribution of Core Premium channels? :

We do not agree that a wholesale must offer is the best way of answering OFCOM's concerns about core premium channels. For the reasons set out in our written response, we do not agree that there is restricted distribution of core premium channels in rugby union nor do we agree that the wholesale must offer will work.

Question 9: Do you agree with our proposal not to apply a remedy to wholesalers without market power?:

We do not agree with this proposal for the reasons set out in our written response. It appears that OFCOM is looking only to sanction Sky.

Question 10: Do you agree with our proposal not to extend a remedy to retailers on Sky's own platforms? :

We do not agree that it is right to extend a remedy to retailers on Sky's own platforms for the reasons set out in our written response.

Question 11: Is it necessary for us to set the prices of a wholesale must-offer? :

We do not agree that OFCOM should set the prices nor do we agree that there should be a wholesale must offer as we have set out in our written response.

Question 12: Do you agree with our overall price-setting approach of using retail-minus, with a cost-plus cross-check?:

We do not agree that OFCOM should have any form of price setting for the reasons set out in our written response.

Question 13: Do you agree with our proposal to include HD and primary interactive sports content in a remedy?:

We do not believe that HD and primary interactive sports content should be included in OFCOM's remedy nor do we agree that OFCOM should have its remedy at all, as we have set out in our written response

Question 14: Do you agree with our views as the concerns relating to commercial premises? :

It is not appropriate for us to comment

Question 15: Do you agree in principle that our retail-minus calculation should start from Sky's retail prices and deduct the retail costs of an efficient entrant?:

We do not believe that there should be any price setting at all for the reasons set out in our written response.

Question 16: Do you agree with our proposal to set simple linear prices per subscriber, allowing flexibility for other pricing structures?:

It is not appropriate for us to comment

Question 17: Do you agree with our proposal for wholesale prices to evolve over time according to a 'ratchet' approach and how should these prices track retail prices over time?:

We do not believe that wholesale prices should be set for the reasons set out in our response.

Question 18: Do you agree with the principle that the same price for a 'factory gate' product should apply to all retailers regardless of their scale and choice of distribution technology?:

We do not agree that there should be a fixed price for the reasons set out in our written response.

Question 19: Do you agree with our approach for deriving starting retail prices given the complexity of retail bundling?:

We do not agree that retail prices should be fixed for the reasons set out in our written response.

Question 20: Do you agree with our calculation methodology to deduct retailing costs ? in particular the use of a discounted cashflow analysis, deduction of incremental and pro-rated fixed and common costs, and the use of Sky's costs as an efficient retailer?:

It is not appropriate for us to comment

Question 21: Do you agree with our proposal to focus on deriving prices for a 'large' entrant scale retailer using DTT transmission and what are your views on our range of prices?:

We do not believe that OFCOM should be able to fix prices for the reasons set out in our written response

Question 22: Do you agree with our approach to deriving a wholesale price for HD services and what are your views on the resulting range of prices?:

We do not agree that there should be a wholesale price for the reasons set out in our written response.

Question 23: Do you agree with our proposals for non-price terms ? in particular on Minimum Qualifying Retailer, Minimum Security Requirements and a Reference offer?:

It is not appropriate for us to comment

Question 24: Do you agree that a wholesale must-offer remedy is unlikely to contribute significantly to the administrative costs currently incurred by Sky?:

It is not appropriate for us to comment

Question 25: Do you consider that our impact assessment above supports our view that it would be appropriate to impose a wholesale must-offer obligation in the form proposed in order to ensure fair and effective competition?:

We do not believe that a wholesale must offer obligation should be in place for the reasons set out in our written response.

Question 26: Do you have any comments on the draft wording of this condition, in light of the positions we have set out in the previous two sections?:

It is not appropriate for us to comment

Question 27: Do you agree with our proposed approach to addressing concerns about the restricted exploitation of SVoD movies rights? :

It is not appropriate for us to comment

Question 28: Do you agree with our proposed way forward on FAPL?:

It is not appropriate for us to comment

Question 29: In particular, what remedies do you believe we should consider on FAPL, if any?:

It is not appropriate for us to comment