

Title:

Mr

Forename:

Ami

Surname:

Bender

Representing:

Self

What do you want Ofcom to keep confidential?:

Keep nothing confidential

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

Question 1: Do you agree with our current view that under the Proposal, Sky would be likely to emerge as the sole or main retailer of pay TV services on DTT, given its market power in the wholesale markets for Core Premium channels and its incentives to withhold its Core Premium channels from other retailers of pay TV services?:

Yes

Question 2: Do you agree with our current view that the emergence of Sky as the sole or main retailer of pay TV services on DTT and the consequent adverse effects on competition would be likely to occur in a relatively short timeframe?:

Yes

Question 3: Do you agree with our current view that Sky should not be prohibited from retailing pay TV services on DTT provided that its Core Premium channels on DTT are made available to its retail competitors on a suitable wholesale basis?:

No. If Pay TV is allowed, then there is an issue of 'good' quality programs migrating to pay channels, leaving only fringe or low quality channels. An example of this in cable is the migration of high quality channels to more expensive packages, as has been seen with telewest (now Virgin).

I feel a set of low quality channels would undermine a lot of the strengths of Free view

Question 4: If we were to consent to the Proposal, subject to a condition that Sky must make its Core Premium channels available to competing retailers on a suitable wholesale basis, do you agree that it would not be necessary to impose additional conditions addressing the provision of TPS by Sky?:

NO. See above

Question 5: Do you agree with our current view that the Proposal is unlikely to have a significant adverse effect on the DSO process or the appeal of Freeview to consumers?:

No. See previous answers

Question 6: Do you agree with our current view that the extent to which the Proposal may increase complexity in the decision-making process for consumers wishing to buy DTT reception equipment, this issue can be managed effectively without the need for imposing relevant conditions on Sky?:

This would depend on the details. As we have seen with Microsoft, owning a technology or set of interfaces can give a company tremendous power.

Question 7: Do you consider that to the extent the Proposal may lead to a (greater) conflict of interests between Sky and the other members of DTVSL (the company which operates Freeview), this is a matter which in the first instance should be resolved by the relevant parties through commercial negotiation?:

I believe it will cause a conflict, but I dont know if commercial negotiation is the correct way.

I can say that if sky stops making a meaningful free contribution, then I think their presence would be something that would worry me

Question 8: Do you agree with our current view that a wholesale must-offer arrangement, under which Sky must provide wholesale access to its Core Premium channels on DTT, is the most appropriate solution for us to pursue to address the competition concerns we have identified?:

Again, devil in the detail. I would be happier if it was kept free as I feel adding paid content has issues with weakening quality. See previous answers for more details. I might suggest conditions so that current content is not weakened.

Question 9: Do you agree that simulcrypt is the most appropriate means of allowing multiple retailers to have access to Sky's Core Premium channels on DTT?:

Question 10: Do you consider that Sky or relevant third party retailers on DTT would be provided with an incentive to reduce the effectiveness of a wholesale must-offer arrangement? If so, in what ways might they seek to achieve this?:

Question 11: If we were to consent to the Proposal subject to a suitable wholesale must-offer arrangement being put in place, do you consider that any ancillary conditions would be required to ensure that it was workable from a commercial and technical perspective? If so, please explain: (i) the ancillary conditions that would be required and the specific concern(s) they would seek to address and (ii) why there would be no other practicable and less restrictive means of addressing the concern(s) in question:

Question 12: Do you consider that our indicative analysis, summarised at paragraphs 4.7 to 4.12 and set out more fully in Annex 6, supports our current view of whether we should opt for Option 1, Option 2 or Option 3?:

Comments:

I think some care should be taken to look at how paid channels would affect the quality of free view for everybody else. For example Telewest used to migrate popular channels to more expensive packages so that people would need to upgrade. They would try and hide this move by replacing these with several new channels, but these were of significantly lower quality.