

Freeview Response to Ofcom Consultation: Digital Dividend Review 550-630 MHz and 790-854 MHz

1. Introduction

This document outlines Freeview's response to the Digital Dividend Review 550-630MHz and 790-854MHz and we welcome the opportunity to respond to Ofcom. Freeview's response has been prepared by the company's management team and is not necessarily representative of the views or opinions of Freeview's shareholders.

In writing this response our focus has been to comment on the proposals from the perspective of Freeview's current and future consumers – in line with our objective of continuing to drive take up and enjoyment of a vibrant free broadcast proposition on DTT.

Our response is anchored in our consumer research and understanding of both existing Freeview consumers and the wider population's attitudes to digital TV as a whole. Our response to this consultation is consistent with our upcoming response to the interleaved spectrum consultation, given that the issues for Freeview are largely the same.

2. Executive Summary

Freeview provides a real alternative to pay TV in the UK and is now enjoyed by over 16m households. Consumer advocacy is currently positive – 66% of Freeview consumers would actively promote Freeview to friends and family – with their satisfaction driven in particular by the strength of the free channel line up. But this cannot be taken for granted over time. In qualitative research existing Freeview homes tell us that evolution of the platform, particularly in terms of evolving the strength and breadth of the channel offer – as well as keeping pace with technological developments – is essential to their continued support. This is particularly true in the face of increased competition and promotional strength from the satellite and cable pay sector with their inherent spectrum advantages. Additionally, Freeview now also faces competition for the first time from a new free competitor, with the spectrum benefits of satellite in terms of capacity for both multiple SD and HD channels. Freeview therefore strongly supports an award process which facilitates maximum participation from operators seeking to establish free services on DTT with high consumer appeal.

The auction process outlined by Ofcom would in our view be effective in encouraging bids and maximising the value of the spectrum. Freeview would, however, look to the licence conditions to ensure that the full benefit of the auction is ultimately felt by citizens and consumers.

As a prerequisite, the licence conditions must minimise the potential disruption to reception of existing DTT multiplexes. Consumer disruption and confusion must also be kept to a minimum, especially given the timing during the rollout of Digital Switchover and the launch of new HD services on the platform.

We will respond to Questions 4, 7, 11, 13, 17, 18, 44 and 45 of this consultation.

Q4 – Do you have any comments on our assessment of the most likely uses of the cleared spectrum and the amount of spectrum required for these services? Are there any other potential uses that we should consider?

We do agree with the most likely uses of the cleared spectrum. We are most interested in how spectrum may be released to the continued benefit to the DTT platform. The launch of Freeview has been a considerable force in the UK's transition to digital and enjoys a high level of consumer satisfaction – currently 90% - through the provision of quality TV content to consumers for free. As Ofcom's figures show, however, primary set acquisition is slowing and the gap between Freeview and other operators is narrowing. The release of spectrum to DTT is an essential tool with which Freeview can maintain competitiveness. We know that increasing the content on Freeview with quality new channels can drive appeal. For example once E4 was launched on Freeview 59% of purchasers said it influenced their purchase decision and 14% of consumers who didn't have Freeview said it made Freeview more appealing. We therefore support the consultation in its ambitions to open the digital dividend to new services including potential DTT services. Because of our belief in the value that the spectrum can bring to the DTT platform and the UK economy, we would also advocate the inclusion of a 'use it or lose it' licence condition irrespective of whether awarded to DTT or elsewhere. Otherwise the opportunity the spectrum brings may be compromised in the short and long term.

Q7 – What are your views on deferring the start date for rights to use cleared spectrum in London to help meet the need for wireless microphones and other audio links for the London 2012 Olympic Games and Paralympic Games?

Freeview cannot comment on the need for this measure, as we are not aware of what other technical options are available to enable the required coverage of the 2012 Games. Assuming this dependency is absolutely necessary, we have two perspectives. If the cleared spectrum were to be used for local television services then we would have a preference not to defer the start date in London, as other local services could be launched and operate discreetly. However, if the spectrum were used for a national television service then the need for UK-wide marketing to launch a channel would favour deferring the date in order that a full national launch could take place. Our ability to exclude London from a national launch campaign is made difficult by the structure of the advertising market which sells airtime on digital channels on a national basis. This would result in consumer confusion during switchover.

Q11 - Do you agree that the most efficient and effective means of preventing interference to the existing DTT services is by the addition of a protection clause to licences in the cleared spectrum? If not, what alternative approach would you suggest?

Freeview supports any measure which results in the greatest likelihood and degree of certainty around reduction of DTT interference.

Reception issues are the primary source of complaints for consumers - in July these accounted for 52% of all calls to Freeview's call centre. Loss of services, the need for retuning set top boxes and aerial issues weaken Freeview's comparative position vis-à-vis satellite services. We therefore appreciate Ofcom's concern with balancing the benefit from new services and any negative impact on reception. This is especially true given the increased amount of retuning already required of consumers through the switchover process.

Therefore the protection clauses outlined would at a minimum be required for implementation. We support the onus on those creating the interference to control it and we support putting in place time limits for the resolution of problems once they are identified. We also advocate the protection of reception relating to the commercial MUXes. The Freeview marketing programme will be widely communicating the extension of coverage and new channels available to appropriate target audiences. Any compromise on the delivery of these commercial channels would undermine the viewer experience and our communications programme.

Where the dividend is going to result in interference, Freeview and Digital UK need to be made aware of the specifics of how many households are affected, where and when, as soon as possible, so that appropriate communication plans and customer management strategies can be developed in time.

The DTT installed base now numbers more than 16m sets. Any impact on reception cannot take lightly any negative impact on legacy equipment, due to the sheer volume of sets in market. If the issues referred to in the consultation with regards to legacy equipment cannot be avoided, then Freeview again would encourage early sharing of information on what this impact will be and how many sets would be affected by it. Clearly we would also support any measures which would eliminate or minimise the risk of interference on legacy equipment.

Q13 – What do you believe would be the implications of protecting indoor / set-top antennas? Should a distinction be drawn between set-top antennas and larger antennas designed for external reception of TV signals that are loft mounted?

Given the scale of the Freeview installed base we do believe in protecting the installed base as far as possible. This includes separating out loft mounted antennas from set-top antennas for the purposes of protection. Although we appreciate the need for Ofcom to balance the impact on some television reception with the potential benefits of the auction, we are also mindful of the ongoing and cumulative impact of technical failure on experience and perceptions of the platform. This is borne witness by ITV Digital's experience which played a significant part in the platform's ultimate collapse. In recent times, for example the Split NIT issue has created very real negative experiences

and PR and the upcoming 2k/8k issues are highly likely to raise similar issues. We would therefore support any reasonable steps that Ofcom can take to minimise further disruption to the platform. Protecting loft mounted aerials would appear to us to be a reasonable measure.

In terms of reception devices, we agree with Ofcom that all devices need to be in scope of the protection clause.

Q17 – Do you agree that where the cleared spectrum is used for the operation of a DTT multiplex, we should replicate the ownership restrictions from the Broadcasting Act regime relating to (a) local authorities, (b) political bodies, (c) religious bodies and (d) bodies exerting undue influence but not replicate restrictions relating to (e) broadcasting bodies and (f) advertising agencies?

The quality of the channels and programmes on Freeview is critical to the competitiveness of the platform, especially given the natural restrictions around the quantity of channels. The opening up of the platform to content provided by advertising agencies in particular is of concern. This may result in an overall reduction of the quality of content provision if allocated spectrum goes to pure advertiser funded content, which as yet is unproven in its ability to raise the overall standard of the TV viewing experience. The quality of viewing on the platform is often compromised already by the existence of barker channels, such as those held by pay operators. We are in agreement with Ofcom's view as regards other potential licence-holders.

Q18 – Do you agree that we should facilitate interoperability between existing DTT multiplex operators and the new operators using cleared spectrum?

Freeview considers interoperability between all operators a prerequisite to the sound operation of the DTT platform, and believes that Ofcom and the multiplex operators have an obligation to preserve it. The need for consistency and accuracy in the scheduling information, the viewer interface and viewer services are essential to making the platform competitive. Whilst not in favour of the 'mandate' option which would involve greater intervention and potentially the suppression of innovation, we would support a strong facilitation role for Ofcom, with the industry working together through the DTG to ensure a maximum level of interoperability, whilst continuing to encourage, as a group, innovative market offerings. We would expect Ofcom to facilitate interoperability not only at the request of any new entrant, but also at the request of any existing operator, in order to maintain a level playing field.

Q44 – Do you agree with our assessment that issues in the pay TV market are not at this stage primarily an issue for the cleared award?

Q45 – Do you agree with our initial assessment that we should not intervene further in the cleared award to remedy any potential impact on competition resulting from the holding of cleared spectrum by NGW/Arqiva?

We will answer these two questions together.

Freeview agrees with Ofcom that Ofcom's pay TV market investigations are not primarily linked to the potential for Sky to acquire cleared spectrum.

With regards to a potential award to Sky, Freeview would support any DTT services which appeal to consumers. We recognise however that the most appealing channels to a (potential) Freeview consumer would be free to air. Pay services also hold appeal – but although 84% of Freeview viewers agree that it would be a good thing to have the option to access more pay channels, the majority (79%) would not pay for them, being happy with what they have.

Finally, we also agree with Ofcom that in the event of the acquisition of cleared spectrum by NGW/Arqiva, any anticompetitive behaviour would be subject to separate and subsequent review. We would be concerned that imposing any regulatory restrictions on NGW/Arqiva at this stage may result in missed opportunities for appealing services on DTT.