

Name and title under which you would like this response to appear:

Anonymous 134

Representing:

Self

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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:

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Question 1: To what extent do you consider that DTT, DSat, cable and IPTV are in competition with one another for subscribers of pay TV services ? either at present or in the future?:

There is nominal competition for pay television services however the market is dominated - unhealthily - by one market player (BSkyB). Any Ofcom intervention in the market should strengthen competition between providers, not to facilitate further dominance by one provider. Digital Switchover creates a huge marketing opportunity for Sky and Cable providers to capitalise on public confusion. Weakening FTA DTT is likely to be a strategy to encourage analogue users to migrate to DSat rather than extend a very limited choice in premium content to DTT viewers.

Question 2: To what extent do you consider the Proposal is likely to deliver benefits to the consumer?:

The proposal will offer few benefits to the consumer. As a proprietary encryption service is suggested in the application with only 4 channels, customer take up is likely to be limited as it would be unattractive compared to satellite or cable packages. It would appear it is instead designed to weaken the free to air offering on Freeview and possibly to encourage FTA services on DTT to encrypt as part of the Sky Picnic offering or to remove a competitor (TopUp TV). Freeview has evolved into an

excellent TV package for those viewers who do not wish to subscribe to premium movies or sports channels and any proposal to remove free to air services is very much against the public interest.

Question 3: To what extent do you consider that there is scope for sustainable competition in pay TV on the DTT platform and, more broadly, across all pay TV platforms?:

Available bandwidth on DTT is limited. There is already a subscription service on DTT and if further subscription services are to be launched, although this is undesirable, they should use the existing TopUp TV encryption rather than have a competing service.

Question 4: What are likely to be the key aspects of competition between providers of retail pay TV services on the DTT platform? E.g. what is the role of premium sports and movies content?:

Premium movies and sports services are best delivered on satellite and cable platforms. Limited space on DTT is better suited to free to air general entertainment. If Sky are allowed to extend their de facto monopoly on subscription television services into DTT, I would expect trading conditions for rival providers including TUTV and Setanta to be very challenging. Business failures would certainly be possible.

Question 5: Do you consider that if Sky were to become the only provider of pay TV on the DTT platform it would be likely to have a significant detrimental effect on competition in the long term? How might this affect the development of other platforms for the delivery of pay TV services?:

Sky already hold a de facto monopoly on subscription television services. Their dispute with Virgin Media over Sky One and other channels would appear to suggest that they only wish their channels to be available direct from them. Sky's market dominance in DSat prevents competition on satellite encryption. I would expect this monopoly position to be replicated on DTT if this proposal is approved.

Question 6: To what extent, if at all, do you consider that the Proposal would be likely to lead to any of the public policy concerns outlined at Section 4?:

The public policy concerns are well founded. BSkyB has proved to be a ruthless competitor in the past and should not be allowed to weaken the Freeview offering from within the DTT group.

Question 7: Specifically, to what extent do you consider that the Proposal would be likely to lead to consumer confusion?:

The impression will be that Freeview is not free any more. Consumers may be panicked into buying more expensive DSat or cable packages instead.

Question 8: To what extent do you consider that it is beneficial for consumers to be able to obtain Sky and existing DTT pay TV content without having to purchase separate STBs?:

Sky pay TV on DTT is undesirable from a competition perspective. If it must be approved, then it must be available from existing STBs.

Question 9: Do you consider that the Proposal might lead to any additional public policy concerns:

Removal of the only FTA competitor to BBC News 24 is against the public interest.

Question 10: If Sky becoming the only provider of pay TV services on the DTT platform were likely to have a significant detrimental effect on competition, do you consider that it is possible to address this through a set of additional conditions and/or directions? If so, what form should those conditions/directions take?:

I believe Sky's plan is to become the only provider of pay TV services on any platform. Conditions and directions would be costly and if not worded correctly would be bypassed. Rejecting the proposal outright is a neater and more appropriate solution.

Additional comments:

This proposal is designed to thwart competition in DTT subscription services and to weaken the free to air offering in the build up to digital switchover. It is in the public interest for this ill advised proposal to be rejected outright. If BSkyB wishes to concentrate on subscription services, they should do so on other platforms and release broadcast slots on DTT for the use of other free to air broadcasters.