

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

Anonymous 142

**Representing:**

Self

**What do you want Ofcom to keep confidential?:**

Keep part of the response confidential

**If you want part of your response kept confidential, which parts?:**

Contact details.

**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: 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?:**

I consider that DSat, cable and IPTV are in competition for pay-tv; DTT isn't, and it is beneficial to society's citizens that - within the limitation of the current six multiplexes - it is not. Pay-TV would be acceptable on new additional multiplexes occupying "DD-liberated" spectrum; it's not welcome in substitution for FTA services within existing DTT spectrum.

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

I consider that Ofcom's duty to further the interests of citizens overarches its duty to consumers and to promote competition. The proposal will deliver a dis-benefit to the citizen.

The DTT platform having a history rooted in analogue terrestrial TV transmission, requires far less additional investment on the part of citizens, to obtain reception i.e.

for many households, their existing aerial apparatus is suitable for DTT. This, together with a much smaller total bandwidth (even including "liberated" spectrum at present not used by digital TV) makes the it most appropriate platform to serve citizens who do not wish or cannot afford to watch pay-TV. The other platforms (DSat, cable & IPTV) are thus suited to having their bandwidth/spectrum allocated by the market, where DTT is not so suited.

**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?:**

There will be potential for it when licences for liberated (DTT) spectrum go on sale. Pay-TV must be allowed to detract from or draw spectrum/bandwidth away from, "Freeview". Sky's present proposal is premature and if approved, would give them an unfair headstart on other potential DTT pay-TV providers who may be unable to enter the market until that time.

Ofcom must ensure that Sky's pay-TV market share (across all platforms collectively) does not grow any larger. I find it bewildering that while Ofcom takes a close interest in terrestrial TV regulation, Sky has been given free rein in satellite TV to enjoy a monopoly for years and to impose anti-competitive practices such as "constructively" excluding other operators from its EPG with excessive fees. Sky's market abuse has historically suppressed take-up of FTA satellite to such an extent that there is a widespread public belief that satellite TV reception is only possible within a Sky pay-TV contract!

**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?:**

Availability of "live" viewing vs off-peak-record-&-playback service.

Particular channels offered; flexibility for consumer in channel choices.

Quality of customer services.

**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 has complete market dominance in pay-tv on the satellite platform - it has a monopoly. It is illogical to allow it an opportunity to replicate (an already unacceptable position) on the terrestrial (DTT) platform. If the proposal was approved the result would be that a single company would have pan-platform dominance in pay-TV. Ofcom must impose a "cap" on Sky's market share of pay-TV both overall and on each platform.

**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?:**

Overlooked, so far has been possible disruption to citizens using FTA/Freeview equipment (including legacy OnDigital receivers). Even more important than access to services for those who would like it, it that broadcasters must not be permitted to transmit their services in a manner which obstructs the reception of those who DO NOT wish to access them (i.e. data interference). In relation to Sky's specific proposal, Ofcom must test that the use of the proposed transmission format does not affect reception of the other services on Multiplex C by "legacy" OnDigital and Freeview-endorsed DTT receivers presently in use.

To my knowledge, NGW bid on and was granted its present DTT licences under a regime requiring FTA broadcasts. It is desirable that households are able to view a good number more FTA channels than those available on analogue terrestrial, without having to invest in equipment for multiple platforms. The DTT platform, in comparison to the satellite platform has a relatively small capacity. Therefore it remains desirable that the 'Freeview' line-up on DTT does not shrink below its present size, in order that households continue to receive a worthwhile "return on investment".

It is a distinct benefit to citizens, that with the FTA inclusion of "Sky News" on Freeview, the BBC's "News 24" is not the sole general news channel in the Freeview line-up. Thus an alternative, second source of news is available to all households within Freeview coverage.

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

It will cause tremendous confusion. There are so many developing issues at present it would be preferable to defer DTT Pay-TV licences until "the dust has settled" after digital switchover. Current issues which citizens are grappling with are: poor DTT reception due to the low power network in use until switchover, public ignorance of FTA satellite as a platform, the unavailability of all PSB channels on FTA satellite (due to level of Sky EPG fees), the forthcoming launch of BBC FreeSat, reduced functionality of analogue VCRs and DVD-Rs after switchover, uncertainty over availability of High Definition TV (HD-TV) especially on Freeview.

**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?:**

Already, the two current DTT Pay-TV providers (Setanta, TopUpTV) specify a sole (different) model of receiver to receive their service - denying consumer choice of hardware and unnecessarily creating a disincentive to switch between or combine services viewed per household or TV set. Sky proposal would add a third receiver to the confusion. This is exactly the situation that the development of technical standards sets-out to avoid. Ofcom should identify appropriate transmission and encryption

standards; permit only their use and prohibit practices making services mutually-exclusive. The objective being that any compliant receiver can deliver all services broadcast upon insertion of a "smartcard" from each provider. Thus the marginal cost of acquiring a service should comprise only the market price of the service without the encumbrance of an unnecessary additional hardware cost.

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

In relation to Ofcom's duty to the interests of citizens, I would raise for consideration the degree of access and affordability of free-to-view TV for the UK's poorest citizens. Looking at FTA television, DTT reception has a significantly lower marginal equipment cost (to add to the cost of a TV set) than satellite reception, e.g. £25 DTT vs £150 satellite. This is mostly because virtually all UK homes have existing terrestrial aerial apparatus; this is not also true of satellite dish(es). Therefore the proposal, in reducing the range of FTA DTT channels, will discriminate across the poorest in society.

To allow NGW to turn DTT bandwidth which was occupied by Freeview channels when its licence was granted, over to Pay-TV would be a betrayal of the vast majority (myself and extended family included) of households who have spent hundreds of pounds equipping themselves for DTT. My extended family decided to acquire DTT reception motivated by the promise of gaining numerous new channels without subscription i.e. FTA. In 2002, DTT consisted (almost) entirely of Freeview; the terms digital terrestrial and Freeview were synonyms. In all the publicity the platform received, it was referred to as Freeview. It was the Freeview brand and proposition that motivated my family - and I believe - an overwhelming majority of households to acquire DTT reception. As I live in a fringe reception area, it cost over £200 to equip for Freeview reception. It is unthinkable that licence-holders who were granted licences to broadcast on the basis they were offering Freeview channels should now be permitted to dilute the appeal of the services carried on - what are to me - the six FREEVIEW multiplexes.

**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?:**

No. Sky must not be allowed Pay-TV on DTT until its present stifling of competition on the satellite platform: is tackled by Ofcom and overcome; its market share of Pay-TV on satellite reduced below 50%.

**Additional comments:**

This proposal should be struck out forthwith. If providers (including Sky) wish to develop pay-TV on DTT that should happen after completion of switchover and on new, additional DTT multiplexes situated in the digital-dividend "liberated spectrum".

