

Title:

Mr

Forename:

Surname:

Cumiskey

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

Mr Cumiskey

Representing:

Self

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

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?:

DSat and Cable are the main competitors in the pay TV market and always will be. Pay TV services on DTT are only likely to attract interest from the very small minority of people who may not be able to receive DSat and Cable in their area but can receive Freeview and would like extra choice. Existing DSat and DTT customers which have Freeview as a secondary means of receiving digital TV in their homes are unlikely to switch to this service as it will involve buying in new equipment, so it is unlikely to affect these services. DSat and Cable will always be the preferred pay TV

platforms as they are less restricted in terms of space and therefore have a wider variety of premium content to offer.

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

The proposed Picnic service would involve taking away 3 channels which are currently FTA on the platform and big draws to Freeview (i.e. Sky News) and replacing them with pay channels, therefore any possible benefits are going to be countered by the fact that established, popular and well respected Freeview channels will be lost in the process. The loss of Sky News in particular would be felt if BBC News 24 was to become the sole news provider on the platform as this significantly reduces choice. As I discussed above, the only possible benefit would be for the small minority which can't receive pay TV services via DSat or Cable. But this minority is already catered for by Top Up TV. Ultimately the cons far outweigh the pros in terms of Picnic and it will simply cause more confusion during switchover. Basically it will harm Freeview at a crucial time in its development.

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?:

With limited space on DTT I do not see much scope for sustainable competition in terms of pay TV on the platform. Additionally, I am not convinced there is high demand for such services on DTT. A recent survey revealed that people are more interested in having more free channels on the platform. Those who are interested in receiving pay TV are catered for elsewhere.

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?:

The role of sports and movie content will be important for these services to survive, but they are unlikely to match up to sports and movie content available on other platforms that are less restricted by space. As a result viewers are more likely to opt for the services which have a wider level of content to offer (i.e. via DSAT or Cable) and therefore the deliverance of such services through DTT is not needed. Furthermore, these services will be available in full on these platforms instead of condensed versions like Picnic are proposing.

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?:

It would obviously have a detrimental effect on competition if Sky were to dominate in terms of pay TV services on both DSAT and DTT. Growth of rival services would

be severely affected and the viewer would lose out as pay TV choice would become extremely limited.

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?:

None.

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

I believe the proposal would cause a high level of customer confusion. Channels such as Sky News and Sky Sports News have become established on the platform and viewers will expect to be able to receive these services when they switch to digital. Those who already receive them and enjoy these services will be confused when they suddenly disappear without warning.

Other areas of confusion would include

- i) why are Sky not acting in the best interests of Freeview by continuing to offer FTA channels when they are a member of the Freeview consortium?
- ii) why are Sky offering premium services on DTT when their core business is DSAT?
- iii) why is new equipment needed to receive the service?

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?:

I consider this to be highly beneficial. Confusion over digital TV equipment should not be increased prior to completion of switchover.

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

None.

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 am not convinced this could be easily addressed if such a situation occurred.

I believe Ofcom should reject the proposal outright.

Additional comments:

I feel Ofcom should reject the proposals for a number of reasons outlined below

- i) Freeview has reached a crucial point in its development as switchover becomes a reality. The removal of 3 FTA services at such a time would cause confusion and alienate viewers. This would not be beneficial in terms of a smooth transition to digital.
- ii) The capacity potentially lost from the platform was gifted to Sky as a member of the Freeview consortium, and as such should be reserved for FTA use.
- iii) The appeal of Picnic will be minimal (as I discussed in greater depth in my response to Q1), whereas the impact of losing 3 FTA services including Sky News will be massive. (as I discussed in greater depth in my response to Q2)
- iv) Picnic could harm existing pay TV services on DTT such as Top Up TV which have less capacity available to them.
- v) If and when Sky become the dominant pay TV provider on the platform, this will affect other providers in a big way. For example, broadcasters will be more likely to provide content for Picnic than Top Up TV.
- vi) The danger of Sky becoming the sole provider of pay TV on DTT is always there, which would not be healthy for the pay TV industry or the customer for obvious reasons.