

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

NETGEAR Inc

Representing:

Organisation

Organisation (if applicable):

NETGEAR Inc

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?:

First there needs to be a separation of FTA and pay-TV (subscription). Some subscribers will only want FTA and DTT will suffice subject to coverage. All platforms that deliver pay TV are inherently in competition with each other. Increasingly Web TV will be another option. Subscribers allocate income they will spend on pay TV and will pick a platform which best meets their criteria for convenience, service, content and desired content availability and cost. These criteria will vary significantly amongst subscribers, e.g. one person may only want FAPL, where the other wants Hollywood movies and does not care for FAPL.

A valid question is to what extent pay TV is substitute for FTA. As soon a subscriber seeks content that is only available on pay TV, as long as that platform also delivers the FTA content the subscriber can elect only to use the pay TV platform, this can draw users away from DTT. Therefore making pay TV available on DTT can increase

DTT/FTA usage as long as the subscriber can access FTA and is satisfied with the pay TV content selection ? which will be limited given available DTT capacity

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

The proposal will benefit those customer who:

1. Whose channel selection will be satisfied by the combination of FTA and the offered Sky content ? i.e. they do not seek access to the full array of content offered on Dsat and cable
2. Do not have access to, or do not wish to choose, Dsat and cable for whatever reason
3. Are nomadic (e.g. people in transition between residences or temporary accommodation etc) and do not want a fixed platform service

It may also spur additional competition in content and delivery mechanism e.g. broadcast IPTV or Web TV, and in development of hybrid STBs which mix DTT and online content

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?:

Across all platforms there is already significant competition. It is not meaningful to look at competition only within a single platform (intra-platform). Consumers are primarily concerned with content. The platforms are simply a way to deliver that content, therefore competition concerns should center on content availability across channels.

In that sense if one vertically integrated provides can limit content availability and at the same time has access to more platforms than other providers then competition can be constrained. In the broadband arena this has been managed through open access and LLU

Over time technology will make more channels available at lower cost. Examples include higher speed DSL and fiber-to-the home enabling broadcast over broadband, high-speed fixed wireless access, DSO freeing up spectrum, advanced transmission and video (meg-4) coding, lower cost satellites.

Therefore technology, if innovation and investment is allowed, will continue to increase the total platform capacity. This will provide content providers more options to deliver their content to consumers using a variety of business models including through TV license (PSB), subscription and new ad supported models for broadcast and online media.

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?:

Content will be primary competitive aspect. Given the constrained capacity, retail pay TV will gravitate to the content that has the largest mass market appeal for the targeted consumer segment.

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?:

This would depend on how quickly other platforms develop and what other delivery mechanism become available. In countries where broadband is more advanced than the UK and available at high speeds, its evident that the broadband connection has or is becoming the primary conduit for broadcast and pay TV content. Once broadcast and interactive pay TV content can be delivered over a wired connection, the benefit of a wireless connection (DTT, Dsat) is primarily as infill for areas where the wired access is inadequate.

Content control aside; it is unlikely to have a detrimental affect if all platforms are taken into account and alternate platforms are not limited in their development.

On the second part, If Sky were to become the only provider it would most likely accelerate development of other platforms which would then be the only way for other pay TV service providers to reach consumers. Ultimately content has and will continue to move online, which will allow content owners to disintermediate the platform based pay TV operators.

The biggest enabler to competition over time, will be the ubiquitous availability of open, high speed, broadband access with net neutrality

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?:

Public policy concerns should be limited as long as the PSB channels remain FTA. For other channels that are not funded through the license fee its always a ongoing business decision to decide whether using a ad-supported or other revenue model over FTA or adopting a subscription model is best. As indicated in Question 1 having a core set of attractive pay-TV content available on DTT may actually reinforce the attractiveness of DTT

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

This is a branding issue and can be dealt with in the license terms by ensuring a clear separation between the pay TV channels and the Freeview channels.

The precedent has already been set with TUTV and the BT Vision's hybrid platform.

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?:

Looking at this purely from a DTT perspective, for the consumer this is obviously more convenient. It is primarily a short term and transition issue given that newer TVs will increasingly have integrated DTT receivers and that the DSO and adoption of flat panel TVs will accelerate the TV replacement cycle.

The value though is dependent on Sky's plans for more advanced services, e.g, if they choose to develop their own hybrid STB or add features that someone who does not want Sky pay-TV is unwilling to pay for. Given this it is likely there will always be a need for a separate Sky STB category. Requiring a user to adopt yet another STB could be seen as a disincentive to take the service which must then be overcome by additional value offered

Looking at this from a pay-TV perspective the current reality is that a custom STB is the norm for all pay TV operators including Dsat, cable, and BT Vision.

So the answer is somewhat related to questions 7 and about how you consider this proposal ? is it

a) Freeview with an additional Pay-TV element

Or is it

b) Pay TV that happens to run on DTT

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

The public policy primary concern would be whether this spectrum used by Sky for the pay TV service should be reserved for additional FTA channels. This depends on the demand for bandwidth to launch additional FTA and to what extent DSO will free up additional capacity that can be devoted to FTA

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?:

- 1) Use the DSO to make available additional Freeview capacity
- 2) Clearly delineate branding and advertising between FTA/Freeview and Pay TV
- 3) Address content availability

4) Encourage developments in open, net neutral, high speed broadband to enable online and web TV as a viable platform

Additional comments:

In general NETGEAR supports environments that encourage innovation and provide as many channels to market as possible. For our worldwide operations we see increasing separation between content and delivery platform and a strong trend to content becoming available online. This will and should strongly impact current policy considerations and direction.

This is a time of great opportunity for innovation and NETGEAR believes we will see many hybrid models (both in services and products) emerge as the online and traditional broadcast platforms collide, converge and overlap.