

Title:

Mr

Forename:

Brian

Surname:

Butterworth

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

Brian Butterworth

Representing:

Organisation

Organisation (if applicable):

UK Free TV

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?:

The question is slightly flawed as the systems are forms of delivery of synchronous audio and video content. There is no assumption of subscription. DTT is a limited capacity broadcast system under direct UK regulation, DSat is a not-very limited capacity broadcast system provided under International agreements. The cable system in the UK is wholly owned by a single private company. IPTV leverages the low cost of Internet delivery and imposes a closed-cable TV-style system on it, and can be run in both open (use on any part of the Internet) or closed (used within a firewall or ISP). However, when all the systems are used for premium content television service they appear to be practicably identical products to the consumer.

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

As each of the systems have various limits on the available bandwidth, and have different "footprints", it is important to consider that any increase in the number of subscription services for a small number of subscribers removes value from those who do not subscribe as a free-to-air channel is displaced. For DTT, DSat and cable there is a zero-sum in this regard. It does not apply, technically, to IPTV. Therefore the functional benefit to any subscriber has to be weighed against the loss of benefit to non-subscribers.

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 are several barriers to competition in pay TV channels.

Firstly, there is no wholesale requirement on channel providers, therefore those channel providers who own platform or subscription service can easily exploit the vertical integration of their business.

This, coupled with the gatekeepers controlling the EPG as well, does not provide for free competition and does not allow any possible cost reductions in finding new ways to provide the channels to the consumer to reduce the price of the offer to the consumer.

This has also allowed the channel provider to collude with the provision of subscription services in blocks (Sky call these Mixes, Virgin brand them by "size letter") which requires the consumer to buy "the whole shop", not just channels they want.

The structural problems with DSat, IPTV and cable need to be addressed directly, the very, very limited capacity of DTT would only allow an existing company (either Sky or Virgin) to own another gatekeeping system, because they will always have the commercial bias to expand their operation. BSkyB was formed from Sky Television and British Satellite Broadcasting because of the commercial imperative, which does not necessarily automatically act in the interest of the consumer.

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?:

There is insufficient capacity for the main premium sports and movie channels to be carried, even after the switch to 64QAM mode for PSB1, PSB3, COM2 and COM3 from next year. PSB1/3 are reserved for public service broadcasts, the extra space on COM2/3 would allow perhaps four additional TV channels. TUTV has reduced the "live" channels they have to almost , leaving only Setanta Sports 1 as a subscription channel.

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?:

Yes. It can be demonstrated from looking at the Ofcom figures for digital TV take up. When the BBC went free-to-air on digital satellite, removing the need for the "Solus" cards, BSkyB uses this as an opportunity to roll all the existing Freesat users into their subscription services. BSkyB did this by invalidating all the existing Solus cards, removing access to ITV, Channel 4 and five leaving a phone number on the screen to call. Callers to this number were (both wrongly and illegally) told they MUST subscribe to Sky to get the channels back, holding back the details that a replacement free-to-view card could be purchased for £20. This can be clearly seen on the Ofcom graphs for the beginning of 2003 (such as http://www.ofcom.org.uk/research/tv/reports/dtv/dtu_2006_q4/dtu_2006_q4.pdf page 6).

BSkyB also "played hard ball" with ONdigital when it launched, for example. BSkyB has never shown corporate restraint, and exists to maximize the ARPU, not to serve the consumer.

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?:

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

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?:

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

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?:

Additional comments: