ISBA submission to the Competition and Markets Authority

Sky/ITV merger inquiry

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Introduction

1. This document represents ISBA's submission in response to the CMA's 'invitation to comment', issued on 23 July, allowing interested parties to put forward any initial views on the impact that the proposed merger between Sky and ITV could have on competition in the UK.

2. ISBA (the Incorporated Society of British Advertisers) represents brand owners advertising in the UK. We empower them to understand the industry and shape its future because we bring together a powerful community of marketers with common interests; lead decision-making with knowledge and insight; and give a single voice to advocacy for the improvement of the industry.

3. Given the significance of any merger between Sky and ITV for advertisers, ISBA has been gathering views from our members – 170 corporate members from across multiple sectors of the economy, collectively representing £6.2bn of advertising spend – in order to reflect their questions and concerns.

4. The proposed merger is one of the most significant developments in the UK media market for many years. Advertisers rightly want to understand what it will mean for pricing, transparency, independent measurement, innovation, and market competition. Our strong view is that the interests of brands, who invest billions of pounds in UK media, must be fully considered throughout the process.

5. Brand advertisers do recognise the potential benefits of the merger, including greater scale and easier cross-platform planning. ISBA and our members are clear that any such advantages must not come at the expense of competition, transparency, or advertiser protections.

Points for Consideration

Scale and Market Power

6. Post-merger, the combined Sky/ITV entity could become the only platform capable of delivering reach in excess of 50%.[1] This is larger in practical reach terms than Amazon, Netflix, Channel 4 or YouTube individually.[2] Pricing safeguards therefore remain very necessary.

7. We would note that Channel 4 should be a major issue for consideration. Advertisers need Channel 4 to exist for a healthy broadcast market. There is a significant risk that Channel 4 could be weakened by the merger. The future health of the wider UK broadcasting ecosystem should therefore be part of the CMA's assessment.

Market Dominance and Pricing

8. Theoretically, a combined Sky and ITV could exercise such dominance of the market that there would be scope for exploitation. There currently exists an Ofcom mechanic to protect advertisers from ITV's existing dominant market position: Contracts Rights Renewal, or CRR.[3] An adjudicator oversees trading disputes.[4] Since its launch in 2003, CRR has proved to be an extremely useful mechanic to manage market dominance. Very few advertisers have actually used the provision, with the threat of its use mainly being sufficient.

9. From an advertiser perspective, the time has come to review CRR. ITV has changed the way it calculates its 'station average price' (SAP), and the way that television deals are done has evolved, with media buying agencies playing a bigger role. Most brands established since 2003 also do not have CRR-protected contracts. For the moment, CRR remains in place – and it does still protect many advertisers while both ITV and Sky already enjoy significant market power.

10. We deem advertiser protection to be one of the biggest issues arising from the proposed merger. The CMA may conclude in the course of its analysis that ITV no longer holds the same dominant position in the market that it historically held, because of increased competition across video-on-demand. If that conclusion is reached, the current CRR framework may no longer be sustainable in its existing form. Removal of CRR should not, however, mean the removal of advertiser protections; some alternative form of protection will still be required.

Competitor Pricing

11. Specific advertiser concerns include the potential extension of Sky's existing pricing and commercial practices to a larger, combined Sky/ITV business. Feedback from our

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[1] ITV accounts for 33% of UK linear TV broadcast audience viewing, and Sky accounts for 38% - 71% in total. Of Sky's 38%, 11% is on Sky-owned channels; the remaining 27% is accounted for by partner channels, on behalf of whom Sky sells airtime (Source: Barb data on adult linear TV viewing).

[2] The broadcast landscape has evolved. Barb's data on all commercial viewing on TV sets tells us that taking broadcaster video-on-demand (ITVX and Sky On Demand) and ad-funded streaming services (Netflix, Amazon and Disney+) together, ITV (28%) and Sky (13%) account for 41% of all viewing.

[3] See Ofcom, Technical background guide to advertisers and buyers' rights under the CRR remedy.

[4] Office of the Adjudicator (CRR).

members highlighted concerns around premium pricing being applied to advertisers deemed to be competitors, including businesses connected to entertainment and streaming services, alongside restrictions on sponsorship and access to certain programming – particularly high-profile sports programming.

12. Advertisers are concerned that, as both a media owner and a competitor in some sectors, these dynamics could become more pronounced following a merger – raising questions over whether a merged Sky/ITV entity could increase its pricing power and reduce advertiser flexibility over time.

Pricing Transparency

13. Advertisers continue to express concerns over transparency in both linear TV and broadcast video-on-demand (BVoD) pricing. If 'station average price' remains, the CMA should require clear and consistent SAP calculation methodologies. Advertisers require transparency over the revenues included within SAP calculations, transparent BVoD pricing methodologies, and auditable reporting standards across all inventory types.

14. In short, the merged entity should not be able to shift value between linear TV, BVoD, sponsorship and/or programme finance arrangements in ways that may obscure pricing.

Content

15. ITV is a large public service broadcaster; a merger would place it in the ultimate hands of a United States-based company in the form of Comcast. The impact that this could have on editorial must be noted. Brands wish to be assured that will be no undue influence on editorial from a foreign media company, which may impact on the diversity of UK-produced content. Advertisers want continued investment in high-quality, trusted UK content – and a diverse broadcasting landscape.

Measurement

16. Independent advertising measurement is, and must be treated as, a core competition issue. Advertisers continue to support the development of, and advocate for broadcaster support for, Origin, the advertiser-led cross-media measurement initiative.[5]

Conclusion

17. As noted, the proposed merger could offer significant benefits for UK media. ISBA recognises the need for domestic broadcasters to achieve the scale required to compete with global platforms in an evolving market, and in an era of changing consumer behaviour. Change is also required to sustain investment in quality UK content.

18. However, any consolidation must be judged not only by audience outcomes, but by whether advertisers retain meaningful choice, transparency, competitive pricing, and fair access to effective, measurable TV and BVoD inventory.

19. Beyond competition considerations, advertisers believe it is important that the implications of foreign ownership of a UK public service broadcaster are fully considered. Appropriate governance, safeguards and oversight mechanisms must remain in place to protect editorial independence, media plurality and public trust in UK broadcasting.

[5] See the Origin website for further details.