

Project Kangaroo – Comment from Tiscali UK

The joining together of BBC Worldwide, Channel 4 and ITV to create the Kangaroo TV service raises significant issues and competition concerns for Tiscali TV as well as for other IPTV service providers and pay television operators.

These three pre-eminent broadcasters already have enormous market strength. Between them they control the production of 90% of UK originated programmes. Their brand recognition with consumers is very powerful.

Kangaroo would argue that because it is going to market as a video on demand (VOD) operator Kangaroo's activities should be evaluated and judged separately from any relevant linear and pay TV markets in the UK. In Tiscali's opinion it is impossible to assess the market impact of new services by relying on separate market definitions of VOD as opposed to linear basic or pay TV. Historically, the industry has created these market distinctions to suit its own purposes because the rapid growth of new technological applications for television content required a framework within which rights holders' interests could be protected. New and potentially lucrative forms of television distribution needed new rights categories in order to return value to the content suppliers. These definitions, while valuable to the industry, are completely meaningless to the consumer.

In the UK consumers are increasingly watching television programmes on demand (at a moment of their own choosing). This important change in behaviour has been fuelled by the growth of Internet access and capacity and the personal video recorder (PVR). The development of IPTV platforms such as Tiscali is now contributing to this process. In this environment, the consumer makes no distinction between VOD and linear broadcast TV. Viewers choose to watch programmes in many different ways: as scheduled by the broadcaster, from recording on their PVR, by downloading from the Internet and by using the storage facilities offered by an IPTV platform. All these different ways of watching television programmes are means to access TV content as a whole and consumers do not make a distinction between them that indicates clear market definitions. The decision about which access method to use is dictated entirely by the individual's requirements at the time. For viewers in Britain today, VOD and linear access to TV content are simply aspects of the wider TV market they are buying in.

The truth of this situation is borne out by viewing statistics. Viewers are consuming more and more time-shifted content and recorded programmes from their PVRs. The success of the iPlayer, clearly demonstrates the need and desire for on demand and free content. The distribution of this service has now been expanded to include the Virgin platform as well as the Internet. Virgin report excellent usage – so the iPlayer is set to dramatically increase its market impact.

There is no separately identifiable VOD market in the UK. VOD is simply a method by which consumers can access the full range of premium and basic TV content available to them. The creation of a VOD service by the UK's three strongest broadcasters and content owners will, by offering consumers free and limitless access to the content they value most highly, pose a significant threat to every other platform operator and broadcaster in the UK market.

Kangaroo, supported and marketed by three of the best-known television brands in the UK market, will be in a position to gain access to the best content available. Its ability to reach consumers through cross-promotion from its existing channels and other platforms, combined with the commercial distribution businesses which all three broadcasters currently own, will make it highly attractive to consumers and producers

alike. The service, owned by the companies that make 90% of UK original television content, will become the main shop window for programming on British television. Its combined power will give it *de facto* exclusivity.

Over time this is likely to lead to pressure on content producers to offer the lowest prices to Kangaroo, or be forced to offer their programmes on an exclusive basis. This will have an unhealthy effect on both content producers and TV platforms/broadcasters. The small producers will not be able to survive if Kangaroo squeezes their margins too hard. Other platforms/broadcasters (such as Tiscali) will be unable to compete in commercial negotiations for valuable content because they will not be able to secure the rights being granted or compete on prices being offered on a wholesale basis by Kangaroo. This will have an adverse effect not only UK originated content, but also on international programmes, all of which Kangaroo will endeavour to aggregate under its brand. Kangaroo could create a position of effective monopoly control over some types of highly valuable content in the UK.

The intention of the Kangaroo service is to offer free, advertising-funded and pay-per-view (PPV) services direct to consumers, first via the Internet, then to the TV (as with the BBC iPlayer currently) but eventually through a broadband connection via a set top box. Kangaroo is not just another batch of on-demand content for consumers to subscribe to as they want. It is a major television platform in waiting, a uniquely strong distribution mechanism through which the UK's public service broadcasters will extend their hold over the country's pay television industry.

Pay television channels will therefore be put under even greater pressure than that which they face at the moment. As on demand distribution grows, Kangaroo, with the best content and powerful marketing tools to support it, will rapidly become the destination of choice for the UK television viewer. In other words, as with Freeview or UKTV or even the BBC's own branded digital channels, the ultimate form of Kangaroo will be entirely different from its first. Its parentage will ensure that it will grow into a dominant commercial force – and there will be less need for consumers to use other TV platforms such as Tiscali, BT Vision, Sky and Virgin Media. The public service broadcasters will take advantage of their brand power (and public funding, in the case of the BBC) to challenge the future of the UK pay TV market. With fewer subscribers and difficulty in securing valuable content, pay TV platforms may not be able to continue to carry channels such as Discovery, National Geographic or Living and the business model for much of the UK's present pay TV and platform markets may begin to fall apart.

The concerns that exist with the proposals for Project Kangaroo are significant. The potential negative impact on the UK TV market is huge and not limited to a definable VOD services market that currently exists or may exist in the near future. VOD is a means of consumer access to content, along with linear broadcast, PPV satellite programming and personal PVR use. The market affected will be the wider UK TV market, including content and platforms, as it struggles to cope with the immense power of PSBs joining forces to dictate the future of content distribution and set top box technology. Much of the commercial power of the parties to Kangaroo derives from their privileged positions as PSBs and this should not be abused.

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