



**Ofcom pre-consultation issues paper
“Participation TV: how should it be regulated?”**

**Response of British Sky Broadcasting (Sky)
31 January 2007**

Sky welcomes Ofcom’s consultation on the issue of participation TV and the manner in which it should be regulated and categorised.

Sky largely supports and agrees with the scope of the proposed questions to be raised in the formal consultation. We therefore do not have particular comments in relation to questions 2 to 9 of the pre-consultation paper, but have the following comments in relation to question 1 (the definition of Participation TV).

Participation TV is defined in the pre-consultation as *“those television services (including but not limited to dedicated channels) that rely wholly or mainly on viewers paying for an opportunity to participate in the service.”* The paper goes on to mention premium rate numbers in several instances, with the implication being that the paper is only dealing with such premium rate services.

We believe that participation TV needs to be more widely defined. Although there is an oblique reference to interactive TV, the possibility of viewers utilising other platforms for participation needs to be taken into account to a greater degree, particularly with potential changes in technology allowing far greater participation through, for instance, interactive TV or the internet.

Furthermore, the use of the word “rely” in the definition needs to be clarified. We assume that it means to rely in a financial context (i.e. receive revenues from participants). The definition states that the service should *“rely wholly or mainly”* on participation from viewers in order to fall within the ambit of participation TV. As partial reliance is relevant, what level/percentage of revenues received from participation by viewers would cause a service to be considered participation TV?

We are particularly concerned that Ofcom’s discussion paper does not appear to focus sufficiently on the consumer protection and social responsibility aspects of ‘Participation TV’. Sky’s submission to the Culture, Media and Sport Select Committee into quiz call TV (a copy of which we attach) sets out Sky’s position on this particular element, which is also relevant to those other aspects of ‘Participation TV’ to be considered by Ofcom in its consultation process.

Yours faithfully

Martin Le Jeune
Head of Public Affairs

British Sky Broadcasting Limited



Culture, Media and Sport Select Committee Inquiry into call TV quiz shows

Response of British Sky Broadcasting (Sky)

The Culture, Media and Sport Select Committee has announced an inquiry into call TV Quiz shows. We understand that the legality and operation of such shows are currently being investigated by, among others, Ofcom, ICSTIS and the Gambling Commission.

Sky does not run call TV quiz shows of the type being examined by the Committee. For regulatory reasons, however, we are required to list such channels in the Sky on-screen programme guide. We believe that the structure of the programmes is fundamentally misleading to customers. We therefore believe that such programmes require additional regulation and we applaud the Committee for deciding to review them.

We would like to focus our submission on the final question of the inquiry, relating to whether further regulation of call TV quiz is required. We believe that as call TV quizzes currently exist they act as illegal lotteries, and therefore require significant attention.

1. Call TV quiz shows versus prize draws

Before setting out our case for regulation of the TV quiz shows, we believe it is important to differentiate such shows from the prize draws / viewer competitions which are regularly run on a host of different TV channels and in print publications, frequently for promotional reasons. We believe there are important differences which distinguish call TV quiz shows from other prize draws. The crucial difference is that a significant majority of those viewers who telephone in are not entered into the draw. In prize draws/viewer competitions, all entries receive an equal chance of being drawn.

It is our view that such legitimately operated prize draws should not be restricted by any recommendations made by the Committee.

2. Call TV quiz shows as illegal lotteries

Sky believes that the call TV quiz programmes amount to illegal lotteries. We are aware of the arguments and justifications put forward by the operators of the programmes and respond to each in turn below.



1. The operators argue that the programmes comprise prize competitions (rather than lotteries), as their success depends on the exercise of skill, judgement or knowledge by the participants.

First, there is some doubt as to whether the games require an element of skill. Many of them appear to rely rather more on luck (where players need to guess particular names or items from a large pool of potentially correct answers). That aside, even where there is a sufficient element of skill displayed by the players, it is the fact that not all potential players are able to participate that makes these games illegal lotteries. The overwhelming majority of players who are charged for entry are not given any chance of answering the relevant questions. A majority of callers are informed by a recorded message that they have not managed to get through. They are, however, still charged the entry fee.

2. Some of the operators argue that, even if the questions are not sufficiently difficult to necessitate the requisite degree of skill (and the games therefore amount to a lottery), they include a free-to-enter route and therefore comprise a free prize draw.

Naturally each operation will be judged on its own merits, but it is our belief that none of the alleged free-to-enter routes comply with the requirement that they should be “publicised in such a way as to be likely to come to the attention of each individual who proposes to participate” (Gambling Act 2005, Schedule 1 Paragraph 8(1)(c)). Those free-to-enter routes we have seen are displayed infrequently and refer players to websites which are difficult to navigate. The nature of the programmes, which involve an almost continual call-to-action to participate, make it very difficult to comply with this element of law.

Sky believes that, even if the call TV quiz shows were to include an appropriate free-to-enter route they should still be regulated, as the nature of the way they operate is misleading to players. Lotteries should provide all entrants with an equal chance of winning, and the quiz shows fail to do that.

3 Call TV Quiz shows should be treated as gambling, and licensed accordingly

We would argue that the fact that the call TV quiz shows amount to illegal lotteries, combined with:

- the persistent calls to action; and
- the blocking of callers from getting through in order to build excitement and lead players to believe that no-one else is calling in with answers,



lead to the conclusion that these programmes should be treated as gambling under the Gambling Act 2005, and should be licensed accordingly.

4 Call TV Quiz shows should be socially responsible

Call TV quiz operators should therefore be obliged to comply with the legal requirements relating to social responsibility, in order to prevent under-age and problem gambling. The channels should have the facilities to block under-age players and players should be able to exclude themselves from the service. Where players are not given an equal chance to enter the lottery the odds/chances of their getting through and being given a chance to provide an answer to the quiz should be stated. It should also be made clear that there is no guarantee that callers will get through.

Conclusion

Sky believes that call TV quiz shows comprise illegal lotteries. The fact that they do not give all participants an equal chance of winning (or indeed of getting a chance to answer any skill questions) distinguishes them from other prize draws.

call TV quiz shows represent a form of gambling, and should therefore be regulated appropriately to ensure they conform to high standards of social responsibility.

Yours faithfully

**Martin Le Jeune
Head of Public Affairs**

British Sky Broadcasting Limited

Sky social responsibility measures



In line with other reputable remote gaming operators, Sky has operates a comprehensive programme of measures to encourage socially responsible gambling:

1. Age verification
 - all new registering customers are verified to be 18 or over, using sophisticated software which checks the electoral role and credit reference agencies
 - where a potential customer's age cannot be verified documents proving age need to be sent in for verification
2. Customer-led spend limits
 - customers can set limits on total deposits per day and can reduce those limits at any time
3. Customer self-exclusion
 - customers can exclude themselves from the service on a permanent or temporary basis
4. Provision of information on social responsibility
 - SkyBet.com home page contains Gamcare kite mark and link to the charity
 - home page also has links to responsible gambling information page
5. Information on monies spent
 - customers have access to recent account history including all deposits, withdrawals and bets
6. Free play
 - relevant pages contain links to responsible gambling information page
 - clear message that customers need to be over 18 to play
 - frequency of winning is same as for "cash" games
7. Staff training
 - all employees who deal with customers are trained annually on issues of social responsibility and problem gambling