BSkyB and ITV

The UK TV broadcast market is dominated by a small number of large players. These include terrestrial broadcasters such as the public service provider BBC and the private independent broadcaster ITV. BSkyB is the main satellite broadcaster and the leading cable provider is Virgin Media.

Each of these organisations raises revenues in differing ways: The BBC through a licence fee levied on anyone in the UK who owned a TV. ITV, through advertising revenues; BSkyB and Virgin Media through subscription fees, plus a small amount of advertising revenues.

The BBC, ITV and BSkyB not only broadcast programmes, they are also content creators. Virgin is different; rather than making most of its content, it instead buys in programmes from other broadcasters and independent programme makers. This left it vulnerable; and BSkyB began to negotiate hard when offering to sell content to Virgin Media.

For a number of years ITV had been struggling to hold its market share and as a consequence its advertising revenues were falling. As the company's share price dropped, a possibility arose for Virgin Media to buy ITV and gain direct access to content.

As Virgin began to discuss takeover plans with its financial advisors, BSkyB borrowed £1billion through a bond issue and purchased a 17.9% stake in ITV. Virgin cancelled its takeover plans and asked the UK Competition Commission to investigate BSkyB's stake in ITV.

In its provisional findings the Competition Commission said, "At 17.9%, given the way in which shareholders turn out to vote, we are reasonably satisfied that Sky will either be able, on a particular case, to block a special resolution ... or at least ITV probably thinks they would be able to. That effect will work through to shut in and limit ITV's freedom of action in big strategic matters where they need to resort to sources of external finance."

To deal with the influence BSkyB may have over ITV the Competition Commission were thinking of requiring BSkyB to either sell its entire stake in ITV, or lower it and agree to abide by behavioural restrictions.

The Competition Commission commented that behavioural remedies are "in the package if the divestment was less than total," but such remedies "are basically promises by somebody not to do wrong. They look fine at the beginning, they then require policing and monitoring and enforcing so you are actually increasing the burden of regulation."

The commission also examined the issue of media plurality – where legislation is in place to protect the plural provision of media content, especially that of news and current affairs. The Competition Commission found little evidence for BSkyB to have an interest over ability through its stake in ITV to influence the news output of ITN which is 40% owned by ITV.

The Competition investigation also believes that BSkyB’s stake in ITV is unlikely to restrict competition in the advertising market. This is because while ITV is a big player in this market, BSkyB is not. Since Virgin Media is also a small advertising player, then this may enable Virgin Media to still buy ITV should BSkyB be required to divest its stake in ITV.

Asked when BSkyB might be required to divest, the Competition Commission thought within the next 12 months, or 24 months after they purchased their stake in ITV.

Questions

1. Explain why with usual voting patterns a 17.9% stake is sufficient to have control of a company.

2. Why would BSkyB’s stake act as a significant threat to competition?

3. Define the market for news and current affairs. Why does BSkyB’s stake in ITV not represent a threat to media plurality?

4. At the time of the Commission’s report, BSkyB’s stake in ITV was worth around £200m less than they paid for it. Was this a good move by BSkyB?