

From: Stephen Jones (NSW)
Sent: Thursday, 17 May 2012 8:03 AM
To: DL - Media Ownership Diversity
Subject: clips - News Corp(NZ regulator begins investigation, ACMA & AVaaz) NZ Sky TV dismisses unfair dominance claims [SEC=UNCLASSIFIED]

Follow Up Flag: Follow up
Flag Status: Flagged

News shareholders shrug off market bloodletting

Kirsty Simpson

May 17, 2012

News Corporation shares still outshine market slump. *Photo: Bloomberg*

A DAY after British police laid their first hacking-related charges since News Corp's British newspaper scandal erupted last year, shareholders in Australia again shrugged off the revelations - with the share price falling but outperforming the broader market slump.

After the charging of former News International boss Rebekah Brooks, husband Charlie and four others, with conspiracy to pervert the course of justice, News Corp shares yesterday limited losses to 1.6 per cent - closing at \$20.05 - on an otherwise torrid day for the market. Analysts repeated their view that the hacking scandal was harmful more to individual executives and former executives than to the company.

But across the Tasman, its 44 per cent-owned New Zealand pay TV play, Sky Network Television, had its worst one-day fall on news that the NZ regulator had begun an investigation into potential breaches of the NZ competition act.

The Commerce Commission said Sky's content agreements and contracts with internet providers might be preventing rivals entering the NZ pay television market. The shares fell 7 per cent, the most since it began trading publicly in June 2005.

"We are aware of concerns that access to content and Sky's contracts with internet service providers may be hindering competition," said Commerce Commission Chairman Mark Berry. "Because of this, we have started a separate investigation."

Sky was cleared to proceed with a separate joint venture with Television New Zealand to set up Igloo.

The first hacking-related charges gave extra fuel to global activist group Avaaz's petition to the Australian broadcasting watchdog over Lachlan Murdoch's ownership of significant stakes in the Ten Network, radio group DMG and his directorship of News Corp.

But the Australian Communications and Media Authority immediately played down Avaaz's concerns, disputing its characterisation of Lachlan Murdoch as a "controller" of News. "The ACMA's public register of controllers does not include him as a controller of the News Corp/News Ltd newspapers. It naturally follows that we don't regard him as a controller. He's only listed there as controller of radio and TV assets."

Read more: <http://www.theage.com.au/business/news-shareholders-shrug-off-market-bloodletting-20120516-1yr7t.html#ixzz1v4X01Ame>

SkyTV dismisses unfair dominance.

New Zealand's Commerce Commission is investigating contracts that tie internet service providers to pay TV incumbent SkyTV over claims that the deals block Australian providers from entering the country's IPTV market.

The commission will investigate the contracts for potential breaches of the NZ Commerce Act, which prohibit arrangements likely to lessen competition.

It seeks to determine if the contracts prevent ISPs from providing unmetered access to content from providers other than from SkyTV, decreasing the chance for competing providers like Quickflix to compete equally in the market.

SkyTV dictates the content bundles ISPs take up under wholesale deals, with providers unable to freely differentiate with competitors.

Media commentator Russell Brown said those types of contracts were not allowed in other jurisdictions and called for regulatory change.

Those concerns were exacerbated after a joint venture between SkyTV, which has a 48 percent penetration in New Zealand premises, and key rival Television New Zealand was approved this week by the commission.

The go-ahead for the Igloo low-cost pay TV venture prompted criticisms from opposition communications spokeswoman Clare Curran, who said the decision would only entrench SkyTV's market dominance.

SkyTV chief executive, John Fellet, said he understood the commission's concerns, which focused on complaints made by competitors of the pay TV company and key rival, Television New Zealand.

A spokeswoman for the company dismissed claims that its arrangements were anti-competitive.

"Sky does not ... see the Commerce Commission investigation as a significant imposition and we are confident the relevant agreements, and the way they apply, do not breach the Commerce Act," she said.

A spokesman for Telstra subsidiary TelstraClear, which resells SkyTV content, said the ISP "looks forward to a favourable outcome so that we may freely partner with the global content industry to provide our customers with choice, control and fair value to enjoy the TV, movies and music when and how they want".

TelstraClear chief Alan Freeth has been publicly critical of the payTV broadcaster's market power in the past, with [Computerworld NZ reporting in April](#) that TelstraClear would not un-meter traffic from Quickflix.

Freeth said at the time that he was unsure if the SkyTV contract allowed him to do so.

Quickflix managing director, Paddy Buckley, said the provider was pleased with the commission's investigation, illustrating the company's serious issues in attempting to enter the market.

The IPTV market in New Zealand is heating up with the country's equivalent of the NBN, the Ultra Fast Broadband Project, being rolled out to homes.

Brown said SkyTV's market dominance had the potential to suppress the opportunities brought by the network, as it suffocated the local and overseas content market.

SkyTV's current dominance in the pay TV market was likened to Telecom NZ's "bone-crushing" market power during the 90s, which was described at the time as by the regulator.

However, observers remain unsure whether the regulator would impose the changes they say are needed to open up competition in the market.

"We believe these [Commerce Act] sections are too weak to effectively create the necessary change," said Vikram Kumar, chief executive of lobby group Internet NZ.

Telecommunications Users' Association of NZ chief Paul Brislen said the inquiry must take in the entire broadcasting sector, rather than piecemeal regulatory work by the Commerce Commission. He noted there "has to be a reason" why SkyTV is currently the only pay TV player in the New Zealand market.

Last week, Kiwi service provider Maxnet launched its Fyx service, allowing users to bypass geographic restrictions on overseas content streaming sites like Netflix or Hulu.

However, the service, which could potentially sideline SkyTV's dominance in some areas, was withdrawn from the market just days after launch over concerns it did not fully meet legal obligations.

Fellet denied claims that SkyTV had put legal pressure on Fyx's service.

SkyTV's share price dropped eight percent on news of the investigation.

[Copyright © ITnews.com.au](http://www.itnews.com.au) . All rights reserved.