



‘The treatment of Voice over Internet Protocol (VoIP) under the EU Regulatory Framework’

Response from the UK’s Internet Telephony Service Providers Association (ITSPA)

About ITSPA

This response is on behalf of the member companies of the Internet Telephony Service Providers Association (“ITSPA”), the industry group formed in March 2004 to represent UK-based companies involved in supplying VoIP services to consumers and business customers within the UK and across the European Union.

ITSPA welcomes the consultation by the European Commission on whether and how VoIP services should be regulated under the European Directives relating to voice telephony services and the proposed publication of Commission Guidelines.

Overview

ITSPA believes that a common approach led by the European Commission, documented in formal guidelines and implemented by NRA’s, is the most appropriate way forward. This view is based on the fact that the Internet and services (such as VoIP) that are provided on it are networked and international in nature as a result of the underlying routing technology. In the context of the European Union, operators of VoIP services will be contributing significantly to the development of a single European communications market, provided that technology specific restrictions are not imposed at the Member State level.

We are equally concerned that the absence of a common European approach to regulation could have a detrimental effect on future investment in a wide range of innovative services and technologies which could be created using VoIP. Such barriers to investment could mean that the reduced costs and greater functionality of VoIP based services might not be available in the European Union. This would place European businesses and consumers at a disadvantage compared to their counterparts in markets such as the United States, Japan and Korea where the benefits of switching to VoIP based telephony solutions are already being felt.

Therefore ITSPA supports the proposed direction of Commission policy towards VoIP as detailed in the consultation document. A forward thinking, flexible approach to regulation will be a vital ingredient in allowing VoIP to fulfil its promise as a significant development in the delivery of telephony services. ITSPA has also been keen to recommend a 'light touch' approach to allow innovation and competition to flourish in this new marketplace.

VoIP and Emergency Services

ITSPA particularly supports the Commission's proposal that VoIP service providers should help to develop solutions to such issues as access to the emergency services (including the significant benefits of 'Best Efforts 112') and creating consumer awareness of the limitations and benefits of VoIP as a technology.

One area which we feel that VoIP service providers and organisations such as ITSPA can be of particular help to the Commission and local NRA's, is in developing appropriate Codes of Practice for each Member State to ensure that consumers are aware of the existence, differences and advantages of VoIP based products and that the development of new services and technologies are not inhibited by excessive direct regulation. To this extent we believe that self-regulation is a viable model for VoIP services in EU Members states where organisations such as ITSPA have been set-up.

VoIP Service Categories

ITSPA agrees with the Commission's view that VoIP will be offered in a variety of methods to customers. However, ITSPA has identified 4 main categories of VoIP products that are being or will be offered, to which the proposed framework would apply:

- **Connection Controlled Access**
Where VoIP services are provided by the network operator responsible for the connection. Operators of such services would include incumbents and cable operators.
- **Shared Connection Access**
Where VoIP services are supplied by an operator with high but not exclusive control over the transport layer infrastructure. An example of this would a service provided by an unbundled local loop operator.
- **Service Provider Access**
These services would be available primarily through a designated ISP
- **Access Independent**
Where a company provides VoIP services that are available from any Internet connection.

ITSPA feels that it is vital for the development of VoIP as an industry in the European Union, and in order to promote competition in the telephony marketplace, that all categories of operator (in particular the Access Independent category) are allowed to offer services on equal terms.

We believe that the Commission's current proposals provide a strong base on which additional guidance can be supplied to ensure that equal treatment will in general occur at the first instance.

In regard to the specific points of the consultation, we have replied where we felt that it was relevant to do so as follows:

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4.3 ITSPA supports the concept of a standardised declaration for PATS service providers to be issued by NRAs.

5.1.1 ITSPA views the proposal that it is the responsibility of the controller of the relevant infrastructure to ensure availability as vital in ensuring that new entrants such as VoIP suppliers are not prevented from providing a PATS service (subject to the other PATS obligations).

As identified in the consultation, the network and integrity clause cannot be applied to providers who are not in control of the entire transport layer (i.e. any non incumbent or cable provider). We also feel that even Unbundled Local Loop providers would be unable to fully meet these requirements.

We are concerned that the issue of defining which VoIP services can qualify for the label of PATS is not sufficiently addressed in this document. We feel that it would be completely impractical to produce a workable regulatory definition of ISP services which meet the PATS network integrity obligation, in particular there are no such services whatsoever within the UK which provide an appropriate guarantee.

This would effectively mean that the only operators able to offer any form of 'PATS at a fixed location' service are the incumbent and the licensed 'cable' networks.

5.1.2 - 5.2 As ITSPA understands these clauses, not only can nomadic services can qualify as PATS services (in the same way that mobile telephony can be) but also services with potential nomadic applications would be able to qualify as PATS providers (i.e. should the network integrity clause not apply), provided they meet the PATS obligations as specified in the relevant Directives.

5.1.3 ITSPA agrees with the proposal as identified in the consultation. We propose to work with the UK Office of Communications to produce a Code of Practice that addresses how consumers should be advised of the limitations of services without in-line power.

5.3 ITSPA supports this recommendation. ITSPA is keen to encourage and help develop industry based solutions for routing of Emergency Calls. We believe that it is vital for the end users of VoIP services to have access to the emergency services.

5.4 ITSPA is keen to encourage and help develop industry based solutions for location based information. We agree that the most appropriate way forward is to work in co-operation with the relevant NRA and emergency service providers to ensure that consumer awareness issues are dealt with in a fair and proportionate manner, ideally through an industry code of practice.

In addition, ITSPA has convened a technical forum in which the different VoIP service providers in the UK can meet and devise appropriate solutions for providing location-based information to the Emergency Services.

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- 5.5.1 We support this recommendation on the basis that we understand it to mean there are no additional requirements incumbent on VoIP providers, over and above those for existing telephony providers.

In our experience, the contract a consumer signs for a service includes clauses stating that the data will be maintained by the provider for billing and auditing purposes; the recording of such information will unlimited in time (certainly not less than 7 years, for auditing purposes etc.). Should an end user withdraw their consent, this would in practice result in a termination of the contract.

Our view is that the end user can be advised of the differences in regard to security of communications and other factors compared to existing telephony services via their Contract or Terms and Conditions, including the differences between VoIP and existing telephony services. We would expect the necessary information to be outlined in ITSPA's proposed Code of Conduct for use by all members.

- 5.5.2 As it is likely that a significant amount of media traffic would pass directly from end point to end point (i.e. from one end user directly to the other end user) thereby bypassing the Internet Telephony Service Provider's infrastructure, it is important to consider that lawful intercept of IP Media Streams may need to take place at the end user's Internet Service Provider and not at the premises of the end user's provider of VoIP services.

- 6.1 We hope that the European Commission considers identifying the appropriate controls required over an incumbent and/or SMP telephony provider when involved in VoIP delivery.

In particular it is important to ensure that any wholesale or interconnect VoIP service offered is subject to the same equal access controls as a standard POTS service (e.g. such as those required to supply Carrier Pre-Selection or wholesale line rental), and that interconnection costs for such services (via the standard interconnect agreement) are on a true cost recovery basis, resulting in lower costs of termination.

In addition, where the incumbent is supplying to itself VoIP services for sale to consumers, it is vital that suitable points of IP Interconnection are mandated and that the costs for call origination and termination via VoIP reflect the costs incurred to support IP conveyance and not the whole PSTN and other voice/data architecture. The experience of several of our Members suggests that incumbent operators may try to incorporate costs which are not relevant to the conveyance of specific traffic or accurately reflect the costs involved.

We would therefore expect the Guidelines issued by the Commission to identify that VoIP wholesale origination, termination and conveyance are distinct markets from existing voice markets and that costs and charges should be assessed separately.

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One urgent issue which VoIP service providers are now facing, is the termination costs for calls via the standard interconnect agreement with SMP Providers (e.g incumbents), which originate on standard interconnect circuits, and which terminate to the SMP's IP voice customer. These calls should be charged on a cost recovery basis only.

- 7.1 & 7.4 ITSPA fully agrees with the assessment of the Commission in regard to the requirement to make number ranges available to all service providers. Equal access to geographic and non-geographic numbering on a technology neutral basis is vital for all categories of VoIP providers since access to number blocks and number portability on an equal basis will maximise the availability and take-up of VoIP services.

Given the impact that unequal treatment in number allocation could have on competition between VoIP and other services, we would suggest that the Commission should document this view formally in the proposed Guidelines subsequent to this consultation.

Should the Commission not issue such guidance in regard to equality of access to numbering by VoIP services and/or should Member States ignore such guidance, ITSPA believes that VoIP operators would be discriminated against for no objective reason.

We would also express concern that the UK's Office of Communications is currently considering the issue of allocation of number ranges to "Voice over Broadband" services and is considering proposals to refuse or otherwise restrict access to VoIP services to some number ranges.

- 7.5 It is important for the emerging VoIP Service Providers to have full access to the benefits of PATS, including number portability, and it is important for the long term viability of portability across both POTS and VoIP networks that individual NRA's ensure that portability occurs via the use of a signalling lookup database rather than call tromboning through an originating operator.

Number Portability is a vital ingredient, allowing alternative Service Providers to penetrate the mass market and is especially important for services offered to business customers. However, the commercial reality of currently handling "ported" calls in the UK and several other Member States is that they represent a significant financial cost, due to the inefficiencies of routing ported calls (i.e. via the original provider) compared to the cost of routing a standard (non-ported) call.

Many countries, including the USA, have provided a substantially more efficient and optimal technical routing of calls (via a central "Intelligent Network dip" at the signalling level), which reduces the routing inefficiencies of diverting ported numbers on a call-by-call basis. A centralised solution produces more efficient routing for all

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7.5 calls and ensures equal treatment and costs between routing and handling a ported vs.
(cont.) non ported number.

ITSPA asks for the EU to review this area as a matter of urgency with a view to ensuring that optimal porting solutions are implemented by Member States. The take up and viability of VoIP services will in part be determined to what extent additional ongoing charges for ported numbers continue to be imposed. The usual business model for VoIP services will have difficulties in sustaining large volumes of ported calls and the associated excessive costs of routing via the original number provider.