ITSPA

Internet Telephony Services Providers' Association

19th April 2006

Ofcom's Consumer Policy

ITSPA welcomes the publication of Ofcom's first review of Consumer Policy and agrees with its three broad objectives (namely, integration with competition policy, consumer protection and consumer empowerment).

A primary pillar of ITSPA's work is to ensure consumers have the necessary information to make a well-informed choice about VoIP services. ITSPA is a champion of the consumer and seeks to build trust and confidence through the thorough application and enforcement of ITSPA's Code of Practice and through the ITSPA logo, which serves as an industry badge of excellence.

ITSPA took the initiative to draft the Code of Practice as our first deliverable as we understood that regulation in this area could not adapt sufficiently dynamically to the changing communications landscape. ITSPA's self-regulatory framework is suitably flexible and adaptable to adjust to technological and behavioural changes. Maintaining the Code of Practice in view of shifting consumer perceptions and technologies is a central plank of ITSPA's work.

In view of the successful efforts of the industry to self-regulate and to work closely with Ofcom, government and consumer groups in order to ensure issues are managed efficiently, ITSPA believes that the VoIP industry need not be subjected to further detailed regulation. Allowing a self-regulatory approach would meet Ofcom's "*bias against intervention*" as there is no evidence that self-regulation has been ineffective and led to consumer detriment in the VoIP space.

As discussed at length in our response to the consultation on the Regulation of VoIP services[1], ITSPA welcomes Ofcom's efforts to clarify the VoIP regulatory framework for the consumer and industry alike. However, we do have some concerns that the mandatory nature of some of the proposals is disproportionate and unduly intrusive. Whilst we understand Ofcom's concerns regarding the need to ensure a high-level of 999 access for all citizen-consumers, ITSPA maintains that the current self-regulatory model will best serve consumer interests by encouraging widespread emergency access provision. ITSPA is also concerned that the proposals are not technology neutral thus allowing for the emergence of consumer information loopholes. We are deeply concerned that the specific application of an additional set of regulations for VoIP providers will stifle choice for the UK consumer and affect consumer protection in the long-term by driving VoIP businesses outside Ofcom's jurisdiction.

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[1] http://www.ofcom.org.uk/consult/condocs/voipregulation/

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- 1 -

ITSPA

Internet Telephony Services Providers' Association

On the other hand, we are in full agreement with Ofcom that regulation should be targeted more directly at non-compliant providers to lighten the load of responsible service providers, such as those who are members of ITSPA.

Responses to specific questions

Question 2: Do you agree with Ofcom's position on vulnerable consumers?

ITSPA believes that VoIP offers such a diverse and customisable range of services at reasonable cost that it has an important role to play in bridging the digital divide and will enhance the communications experience of users, who may previously have only been served by a limited set of services.

In order for vulnerable groups to take advantage of these new functionalities, ITSPA agrees with Ofcom's position that it is important to have particular regard for these groups. ITSPA has liaised with consumer and disability groups over the past 18 months and will continue to do so. For instance, ITSPA has appointed one of its member representatives as a technical liaison to act as a point of contact between ITSPA and disability groups and is taking the initiative to test text relays over VoIP. ITSPA also consulted with a wide range of consumer groups when drafting the ITSPA Code of Practice to ensure that the needs of all stakeholders were met.

Question 3: Do you agree with the proposed high-level objectives for consumer policy?

ITSPA supports Ofcom's proposed high-level objectives for Consumer Policy and will continue to work with Ofcom to help achieve these aims.

Question 4: Do you agree that the proposed indicators provide an appropriate basis for monitoring consumer interests? Are there any other indicators which should be used?

ITSPA agrees that it is important to monitor consumer interests, particularly in the dynamic communications sector.

As identified in Ofcom's Consultation on the Regulation of VoIP Services, take-up of VoIP by consumers is increasing and this trend is set to accelerate. However, the suggested indicators proposed here do not take VoIP into account. ITSPA would thus urge Ofcom to include VoIP in its consumer monitoring activities at the earliest possible opportunity in order to track take-up and highlight key issues relating to switching etc from the outset.

Question 5: Do you agree that Ofcom should publish an Annual Report on the Consumer Interest?

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- 2 -

Internet Telephony Services Providers' Association

ITSPA agrees that the publication of an Annual Report on the Consumer Interest would be useful. We believe that it is important that VoIP is considered in the Report.

Question 6: Do you agree with the characteristics identified of effective consumer protection?

In ITSPA's view, the four key elements of effective consumer protection identified by Ofcom are appropriate.

- "*Well-designed regulations governing supplier behaviour*" – ITSPA fully agrees that regulation should be targeted appropriately to avoid undue burden on compliant providers (as this would ultimately negatively affect the choice of services available to consumers). For this reason, we are concerned that some of the regulatory proposals contained in Ofcom's VoIP consultation[2] disproportionately target VoIP services, most of which already comply with the ITSPA Code of Practice. This could create an imbalance in the communications sector: while the number of innovative VoIP offerings coming to market would decrease, "non-VoIP" services would continue to be marketed to consumers without, for example, emergency access limitations being flagged up during the sales process and point of use.
- "*Access to information about rights and risks*" – ITSPA's Code of Practice clearly sets out the information which ITSPA members must supply to their customers. This Code of Practice is readily available on the ITSPA website.
- "*Effective complaints handling processes*" – ITSPA works closely with members to ensure effective complaints handling processes are maintained. Although ITSPA is not directly involved in resolving individual complaints, there is a process in place for directing consumers through the appropriate escalation channels. ITSPA is a member of the CISAS scheme.
- "*Active monitoring and enforcement*" – ITSPA's Code of Practice has robust, in-built enforcement mechanisms to ensure complaints about non-compliance with the ITSPA Code of Practice are dealt with appropriately.

ITSPA firmly believes that the self-regulatory framework it has adopted is best suited to protecting consumers and keeping them informed about their rights. We will continue to work with Ofcom and other stakeholders to ensure that it continues to remain relevant.

Question 7: Do you agree with the assessment and priorities for rights and regulations?

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[2] http://ofcom.org.uk/consult/condocs/voipregulation/

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- 3 -

ITSPA

Internet Telephony Services Providers' Association

ITSPA welcomes Ofcom's recognition of the important role of self-regulatory bodies in ensuring consumer confidence, protection and empowerment (4.42). However, we are somewhat concerned that there appears to be a presumption that self-regulatory frameworks may not be sufficiently robust on their own. ITSPA therefore calls upon Ofcom to ensure that it continues to maintain its evidence-based approach to assessing consumer harm and the benefits of self-regulation.

As Ofcom notes in 4.51-5, regulation is slow to adapt to the needs of changing technology. In recognition of this, the VoIP community came together to establish ITSPA to ensure the development of a self-regulatory framework that would protect consumers on the one hand and promote responsible VoIP services on the other. ITSPA maintains that self-regulation is the most expeditious means of responding to consumer needs as it offers a flexible and easily adaptable framework.

Furthermore, ITSPA's enforceable self-regulatory framework is already applicable to the majority of VoIP service providers in the UK. Importantly, ITSPA aims to be an inclusive trade body: since formalising in December 2004, ITSPA has already grown to a membership of almost 50 (from the international household names, to smaller UK start-ups). ITSPA has worked together with a number of journalists and trade publications, and has been represented at leading VoIP conferences and exhibitions in order to raise awareness of the trade body and to promote the ITSPA Code of Practice. Indeed the ITSPA model is now being replicated in countries as far afield as Australia.

ITSPA aims for its logo to be recognised as a trustmark and we believe that this is an important incentive for providers to join ITSPA. As Ofcom notes, more open markets may increase the scope for the emergence of rogue traders (3.21). Being a member of a trade association, such as ITSPA, which has a recognised Code of Practice in place enables a responsible company to differentiate itself from the less scrupulous players and highlight that it offers a high degree of consumer information and protection.

Question 8: Do you agree with the assessment and priorities regarding consumers' awareness?

ITSPA agrees with Ofcom's assessment and priorities regarding consumer awareness. We would additionally suggest that Ofcom includes links to ITSPA and its Code of Practice on the Consumer Advice section of its website.

Question 9: Do you agree with the assessment and priorities regarding complaints handling and redress?

ITSPA will continue to work with CISAS and Ofcom in order to further improve complaints handling and redress. It is important for consumers to escalate their complaints through a service

providers' complaints process before being referred to an ADR scheme in order for the complaint to be managed efficiently. We would ask Ofcom to differentiate between complaints and disputes when compiling research on the effectiveness of complaints handling and redress mechanisms.

Question 10: Do you agree with the assessment and priorities regarding monitoring and enforcement?

ITSPA is supportive of Ofcom's proposals for an early warning system to identify cases of consumer harm. However, we believe that decisions to take enforcement action must be evidence-based. ITSPA will endeavour to work with Ofcom to help identify scams and possible consumer harm at an early stage.

Question 11: Do you agree with Ofcom's approach to the provision of consumer information?

ITSPA concurs that Ofcom does not have a primary role in improving information flows between suppliers and consumers, as this is best provided by service providers (5.11). We would add that communications trade associations, such as ITSPA, are also important sources of consumer information, and therefore suggest that Ofcom's Consumer Advice website also refers to industry Codes of Practice, such as ITSPA's, to help raise awareness of industry consumer information benchmarks. ITSPA complements the information provided by individual members by clearly highlighting (e.g. through our website, in the media, and meetings with stakeholders) the standard of consumer information and protection offered by ITSPA members and the actions being taken to further improve consumer information. For instance, ITSPA is currently finalising a White Paper setting out the issues and our activities in the field of access to emergency services, as we firmly believe this is an important citizen-consumer issue. ITSPA will continue to assess the need for similar initiatives in the future.

Question 12: Do you agree with Ofcom's conclusion on consumer awareness of suppliers and services?

Ofcom highlights the need for consumers to be aware of new technologies and products (5.23), although it has not considered VoIP in its research. ITSPA believes that it is important to consider consumer awareness of VoIP services, particularly as we believe VoIP services could have an impact on other areas, such as broadband take up.

Question 16: Do you agree with our proposed approach regarding switching processes?

ITSPA will comment on switching processes in our response to the Migrations, Switching and Mis-selling consultation.

ITSPA Secretariat   - 5 -
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ITSPA

Internet Telephony Services Providers' Association

About ITSPA

The Internet Telephony Services Providers' Association was established in 2004 to represent the VoIP sector. ITSPA aims not only to encourage the innovation and development of the VoIP industry through the promotion of self-regulation and competition, but also to promote the benefits of the technology to consumers. ITSPA has the objective of ensuring consumers receive a first-class service and to reassure them that any product or service bought from a company displaying the ITSPA logo comes with a high standard of consumer protection, which is properly enforced and includes a dispute resolution procedure. Further information on ITSPA and its members, can be found on our website here: http://www.itspa.org.uk