



Internet Telephony Services Providers' Association

**ITSPA response to European Commission Public Consultation
on specific aspects of transparency, traffic management
and switching in an Open Internet**

1. About ITSPA

The Internet Telephony Services Providers' Association (ITSPA) is the UK VoIP industry's trade body, representing approximately 70 UK businesses involved with the supply of VoIP and Unified Communication services to industry and residential customers within the UK. ITSPA pays close attention to the development of VoIP regulatory frameworks on a worldwide basis in order to ensure that the UK internet telephony industry is as competitive as it can be within international markets. A full list of ITSPA members can be found at <http://www.itspa.org.uk/>.

Please note that as a trade body ITSPA's response represents the views of the membership as a whole. Individual members may hold different views on any issue and may respond individually.

2. Summary of ITSPA's Position

VoIP is the future of voice services, capable of adding value to telecommunications consumers whilst reducing their costs. As next generation network rollout becomes mainstream, so too will IP telephony. Consumers will expect the same quality of service as on the traditional PSTN network. As the technology has developed, the experience has improved significantly, to the point where the customer experience is exceeding that of traditional circuit switched telephony. It is also important to note that voice telephony is now very frequently carried over mobile networks, and so the future of the IP telephony market depends to a considerable extent on access to mobile IP services as well as fixed IP services.

The concern for ITSPA members is that consumers are simply not aware of how internet traffic management techniques could affect the quality of particular services which they use. The blocking of services such as VoIP is fundamentally anti-competitive and the European Commission should ensure that this does not take root anywhere in the European market. Net neutrality is crucial to the on-going expansion of VoIP provisions as well as other legal Internet services and is a driver for economic growth.



Internet Telephony Services Providers' Association

3. Consultation Response

ITSPA welcomes the European Commission's consultation on transparency, traffic management and switching in an Open Internet.

Issues surrounding the Open Internet have been on the regulatory agenda in various countries for a number of years and have also been a discussion point amongst ITSPA members since the organisation was formed in 2004. Indeed as recently as July 2012 the UK Broadband Stakeholders' Group (BSG), at the request of the British Government, formalised a voluntary industry code of practice to safeguard against negative discrimination on the open Internet, a process in which ITSPA was pleased to participate.¹ A full list of ITSPA policy on this and related matters is available at <http://www.itspa.org.uk/policy.shtml>.

This response outlines ITSPA's general position on net neutrality, touching on various consultation questions (including those in section 2.1 and 2.2).

3.1. Traffic Management

ITSPA understands that traffic management, in certain forms, is an essential and unavoidable feature of the Internet. However necessary traffic management should not be confused with, or used as a cover for anti-competitive behaviour whose purpose is solely to give an advantage to the network operators' own services.

Many consumers are still not aware of traffic management techniques and therefore would not necessarily understand that their service provider could be responsible for the degradation of a particular application. Discrimination remains a threat for any service provider, until consumer awareness of traffic management increases and until the process of switching becomes truly effective.

3.2. VoIP & the Major Network Operators (MNOs)

VoIP is a new industry characterised by a large number of small, highly innovative players. In contrast, fixed and mobile networks are characterised by large established players who typically own both infrastructure (and thus deploy traffic management techniques) and sell voice services over these networks.

Many infrastructure providers have a commercial incentive to disadvantage VoIP services that compete with their own offerings. This represents a threat to the nascent VoIP industry. The obvious concern is service interruption but perhaps even more seriously is the freedom that large vertically integrated operators have to block or degrade VoIP traffic.

¹ Broadband Stakeholders Group, ISPs Launch Open Internet Code of Practice, 25 July 2012, http://www.broadbanduk.org/index.php?option=com_content&task=view&id=485&Itemid=



Internet Telephony Services Providers' Association

The consequence of inaction is a less vibrant VoIP industry focused almost exclusively on the fixed market where there is already a large degree of voice competition. Unless the larger mobile industry supports VoIP operators, voice innovation and development of converged services will be constrained, ultimately resulting in inferior products, higher prices and less choice for customers. In the UK, ITSPA has welcomed the position of some mobile operators such as O2 who have signed up to the recent voluntary code set out by the BSG. We welcome their position and outlook surrounding "Over the Top" (OTT) services but are concerned that this position is not shared by all MNOs.

3.3. Requirements for VoIP

VoIP requires very small bandwidth (approx. 100kbps) compared to other traffic such as video and peer to peer services. In addition VoIP requires reasonable jitter, packet loss and latency parameters that should be easily achievable on a well-managed network. There will rarely – if ever - be a legitimate need to restrict bandwidth for traffic management purposes.

There are documented examples of mobile operators who block the use of VoIP clients on their networks *even though their customers are paying for the data traffic*. Indeed ITSPA conducted some research at the end of 2011 into the current state of play in the mobile space in the UK. Please see the attached ITSPA Report, *VoIP and Mobile Network Operators*, from December 2011. Our review concluded that the most likely explanation of the behaviour of some MNOs towards VoIP blocking was their desire to protect operator voice revenues. Despite the intervention of the BSG and support from Government and Ofcom the majority of UK consumers are served by mobile networks who have not signed up to the voluntary code of practice and who block, or include contractual terms to allow blocking of, VoIP telephony.

3.4. The Mobile Market

3.4.1. VoIP Blocking/ Throttling

The mobile market is of particular concern to ITSPA members as there is evidence of blocking in this area. ITSPA believes that *ex ante* regulation should be considered in this market to promote technology neutral services and to prevent consumer harm. If all MNOs within a member state block access to SIP voice then customers cannot vote with their feet and switch providers. It also creates a competitive distortion by ensuring that they alone can originate voice calls from a particular handset. This also constrains consumer choice in roaming and goes against the new EC Directive which requires MNOs to allow other providers to offer roaming services from 2013/14.

In addition, the growth of 4G services suggests that VoIP technology should be able to innovate and grow. However if mobile operators are allowed to systematically block or throttle VoIP, the range of potential uses for 4G from a consumer standpoint will not be realised. This creates serious investment concerns for the VoIP industry as whilst many companies will want to grow their services in a 4G world, the lack of clarity and certainty creates an unstable environment in which to invest. The result will be that 4G will simply provide additional data capacity for MNOs and not realise its potential as a springboard for innovation.



Internet Telephony Services Providers' Association

As a point of principle we believe that mobile operators offering 'internet' connectivity should support the full range of legal internet service available and not discriminate on commercial grounds against competitors. Such discrimination would appear to be a prima facie example of the abuse of a dominant position. Traffic management should be used only to the extent required to maintain the proper functioning of the network.

3.4.2. Mobile Contracts

ITSPA also remains concerned about the length of contracts in the mobile industry. Even if full disclosure of policy towards blocking was provided, consumers would effectively have to decide at the point of purchase whether they wished to use a VoIP provider over the next 12 to 18 months. ITSPA would question whether this would constitute a fair playing field when competing for customers.

3.5. Communication

3.5.1. Traffic management for consumers

Fair and transparent communication between the customer and broadband service provider or mobile operator is essential. ITSPA believes that any information which is outlined to consumers' needs to be clear and concise. There is a real danger for "information overload" and so it must be kept as simple as possible, with the option for consumers to delve into the more detailed information if they desire.

3.5.2. Accessing meaningful traffic management information

The most effective way to ensure consumer comprehension is to illustrate traffic management techniques in terms of the effect it has on their experience of individual applications, such as voice, video and online gaming. Parameters should be agreed centrally by all players, with enforcement mechanisms and proper checks put in place to ensure compliance.

ITSPA would suggest a simple outline of service provision by the network operator, which should be made clear to customers at the point of sale and clearly on their home websites (via a hyperlink). A set list of services could be selected for operators to highlight which they provide and which they prioritise during high periods of traffic.

Some existing ISPs already provide some useful documentation on traffic management, which could be a useful starting point to formulate parameters on consumer information.² The key will be ensuring both mobile operators and ISPs act unilaterally to provide this information to their consumers. Clear and visual links should also be provided on each homepage of the network operator's website. Whilst ITSPA would advocate that blocking of any legal Internet service by network operators be prohibited full-stop, in the event that any services are blocked, those services should also be stated clearly on consumer information and at the point of sale.

² See PlusNet – http://www.plus.net/support/broadband/speed_guide/traffic_prioritisation.shtml;
Virgin Media – <http://www.virgin.net/allyours/faqs/trafficManagementFAQ.html>



Internet Telephony Services Providers' Association

3.6. Switching

Transparency is only one part of ensuring customers are empowered. Also essential is the consumer's ability to switch provider with ease. There are concerns amongst ITSPA's membership that barriers still exist to switching provider, which could nullify any efforts to provide effective consumer transparency.

Whilst consumers are becoming more able to change providers, there still remain a number of barriers to switching, such as minimum contract terms. ISPs therefore have significant control over the consumers that they provide services to. Consumers in general are not significantly aware of the ways in which traffic management services could potentially affect the other applications which they may wish to use online. In the case of VoIP, there still remain significant potential for a network operator, whether SMP or not, to initiate degradation or blocking practises that are uncompetitive and discriminative.

3.7. Remedies

3.7.1. Option 1

ITSPA's preferred remedy would be to prohibit anti-competitive blocking or interference with third party voice providers. This should be combined with a more effective and harmonised level of consumer information provision, whilst ensuring consumers are able to switch more effectively.

3.7.2. Option 2

At a bare minimum, the EU should harmonise policy along the principles contained within the UK voluntary code of practice undertaken by the BSG. This states that if any communication provider makes certain legal Internet traffic unavailable it must not use the term "internet access" to describe or market such products. This is required to restore clarity for consumers and ensure a competitive marketplace in which telecommunications providers of all sizes and levels of incumbency may compete.

Please see the full copy of the code as reproduced below; in particular Point 1.

From the BSG Open Internet Code of Practice (July 2012):

1. Signatories to this code support the concept of the open internet and the general principle that legal content, applications and services, or categories thereof should not be blocked. Whilst products that offer full internet access will be the norm, in order to support product differentiation and consumer choice, ISPs retain the ability to offer alternative types of products. In instances where certain classes of legal content, applications and/or services are unavailable on a product signatories to this code will:

- i.** Not use the term "internet access" to describe or market such products;
and
- ii.** Ensure that any restrictions are effectively communicated to consumers, building on the commitments made in the transparency code of practice.



Internet Telephony Services Providers' Association

2. Signatories to this code realise the positive impact some forms of discrimination could have in supporting innovation and choice and retain the right to develop and offer managed services. In recognising however that some forms of discrimination may be harmful, signatories undertake that traffic management will not be deployed in a manner that targets and degrades the content or application(s) of specific providers. Signatories also recognise the importance of best efforts internet access being a viable choice for consumers alongside any managed services that might be developed and offered.

3. Signatories support the provision of clear and transparent traffic management policies as outlined in the voluntary code of practice for traffic management transparency.