



Internet Telephony Services Providers' Association

ITSPA Response to DCMS Consultation on Statement of Strategic Priorities

About ITSPA

The Internet Telephony Services Providers' Association ("ITSPA") represents over 100 UK businesses involved with the supply of next generation communication services over data networks to industry and residential customers within the UK. Our traditional core members are VoIP providers. ITSPA pays close attention to both market and regulatory framework developments on a worldwide basis in order to ensure that the UK internet telephony industry is as competitive as it can be within both national and international markets.

Please note that certain aspects of the ITSPA response may not necessarily be supported by all ITSPA members. Individual members may respond separately to this consultation where a position differs. However, the ITSPA Council is confident that this response reflects the views of the overwhelming majority of ITSPA members.

A full list of ITSPA members can be found at <http://www.itspa.org.uk/>.

Response

ITSPA welcomes the opportunity to respond to the public consultation on the Government's draft Statement of Strategic Priorities (SSP) and welcomes the Government's continued commitment to boosting the UK's telecoms infrastructure and delivering on the ambitious targets included in the Future Telecoms Infrastructure Review (FTIR).

Regulatory Certainty

Putting aside the departure of the United Kingdom from the European Union, there is a potential issue with the lawfulness of the Statement of Strategic Priorities. ITSPA recognises that the newly inserted sections 2A-2C from the Communications Act 2003 require the Office of Communications to have regard to such an instrument, however, the domestic provision would appear to be significantly at odds with Article 8(1) of the European Electronic Communications Code (and its predecessor provision in the Framework Directive).

The Government has laid out an ambitious plan for fibre and spectrum in the Consultation, however, ambition in the past, for example with Ofcom's attempt to introduce a dark fibre remedy, has met with well-resourced vested interests in the courts.

With Ofcom's previous decisions overturned by the judiciary, and with a very real risk that the approach by the Department of Digital, Culture, Media and Sport's could be unlawful, the uncertainty could give rise to a "lost decade" in attempting to remedy the UK's infrastructure deficit.

ITSPA doesn't say this because it disagrees with DCMS' priorities; far from it. The status quo needs to be challenged and the lack of ubiquitous connectivity (even the Universal Service Obligation doesn't provide connectivity suitable for our members' basic telephony services) is holding back innovation and ultimately benefits accruing to consumers. It would be a real shame if an esoteric conflict between



Internet Telephony Services Providers' Association

domestic and European legislation provided for an easy mechanism for a belligerent to further their own agenda.

Businesses

ITSPA, being an association whose members predominantly serve business customers, welcomes DCMS' references to requiring a paradigm that serves the needs of both residential and business users of telecommunications. There has been a growing feeling in the industry for some time that Ofcom's mandate is disproportionately focussed on the needs of domestic users and this agenda has been to the detriment of businesses. Openreach's roll-out of Fibre to the Cabinet, for example, demonstrably favoured locations with residential populations and left businesses operating with sub-standard connectivity. Whether this was to hit headline figures of premises for political expedience, or whether it was an action of more nefarious intent by the incumbent to protect ethernet and other high-end connectivity revenues, is unclear – but in both cases the result was the same; business consumers were regarded as second-class stakeholders.

To that end, we welcome DCMS' clear position in the SSP that business and residential consumers' needs are given equal weight for consideration.

Switching

There are two high level “soundbites” that are relevant in a regulated industry like telecommunications.

1. Generally, if you get the wholesale remedies right, the retail outcomes look after themselves.
2. A competitive market is always served by a regime that promotes easy switching between providers.

This is a simple way of saying that competition (and by extension the positive consumer outcomes that accrue as a result) is derived from two sources; sufficient certainty to allow new entrants to invest and a liquid market in which providers can win new customers.

Whilst there are significant efficiencies that can be made in the regime for residential switching, the business regime is fundamentally broken. Businesses wishing to switch their service experience more delays, with a high risk of being held “captive” by their provider than domestic users. Ofcom has acknowledged this problem but has yet not laid out a clear roadmap for its resolution.

Given the importance of ease of switching to furthering the interests of telecom consumers, ITSPA welcomes DCMS' acknowledgement that there are barriers to switching in paragraph 46 of the Consultation and hope that DCMS will elaborate on this accordingly. Presently, DCMS is focussed on the so-called “loyalty penalty” and the discourse appears to be around the provision of information to end-users. This is all important, however, is only going to have effect if the mechanics of physically changing providers are not themselves a barrier.

Switchover

The current PSTN is planned to be switched off in 2025; a mere 6 years away. As yet, BT has not laid out detailed plans as to how it is going to achieve this. This is concerning for two key reasons.



Internet Telephony Services Providers' Association

Firstly, the UK is recognised as having one of the most vibrant and competitive retail communications industries in the world. There are over 1,000 Public Electronic Communications Service providers that add unique value to the propositions of dozens of network operators. The CEOs of Vodafone and TalkTalk have previously warned of “re-monopolisation” and there is a good reason for this; as the monopoly operator of the underlying infrastructure BT has a significant moral hazard. Due attention and care is required to ensure that BT does not favour itself and this, unfortunately, requires a more interventionist approach from the regulator during a transition period than Ofcom or DCMS may desire.

A lack of regulatory certainty, perhaps through only deciding what to regulate after its built, hinders investment. A lack of investment reduces the competitive landscape and ultimately reduces consumer choice and impacts innovation. The UK’s liberal approach to light-touch regulation is absolutely a viable option when the world is largely in a steady state, but is not necessarily the right thing to do when there is a seismic shift underway.

Secondly, there are a plethora of legacy services operating on the current PSTN. Data over narrowband voice services, such as faxes, alarm systems, credit card payment machines, medical monitoring equipment and more could all be impacted by BT’s switchover plans. This means there must be an extensive end-user information campaign, robust roll-back procedures and open and transparent communication about plans and technology all well in advance. There is no point in having ubiquitous gigabit speeds or positive headline project progress statistics if the red pull cords in assisted living facilities suddenly stop working.

Access to Spectrum and National Roaming

A simple comparison of the state of the retail fixed communications market, and the diversity of the operators with the same in the mobile communications market will clearly highlight that there is a fundamental difference between the two.

ITSPA members face significant barriers to entry with the radio access network oligopoly, a situation reinforced by the findings of DG-COMP in the aborted merger of O2 and Three. Plans for spectrum sharing from Ofcom and the ambition of DCMS in the SSP regarding 5G is welcome, however, due regard should be given to repeating whatever the successful interventions were with fixed voice and data in mobile to deliver far more positive consumer outcomes.

If you have any questions regarding our response or would like any further information, please contact the ITSPA Secretariat on team@itspa.org.uk or 020 3397 3312