



Regulation of VoIP¹ Services

Easynet Response

10th May 2006

¹ Voice over Internet Protocol

Easynet's Response to Ofcom's Statement and further consultation on the Regulation of VoIP Services

Executive Summary

Easynet is in broad agreement with the policy objectives and proposals laid out in Ofcom's paper "*Regulation of VoIP Services - Statement and further consultation*"². We consider that it is right that VoIP regulatory policy is technology-neutral, ensures consumers are well informed and encourages widespread access to emergency services. The withdrawal of the interim forbearance policy and proposed amendments to some General Conditions will provide increased clarity for communications providers and consumers.

Whilst, in our opinion, there remains uncertainty surrounding the relationship between network operators and third party Publicly Available Telephone Service (PATS) providers with respect to their obligations under General Condition 3, a more prescriptive approach may undermine Ofcom's policy objective of technology neutrality. Over time, as a result of provider risk assessments and subsequent action plans, communications providers will gain a better understanding of what is reasonably practical.

We consider that when a consumer is purchasing a VoIP service they should be informed of certain service characteristics prior to going through with the sale. Introducing a code of practice within General Condition 14 for the purpose of ensuring that consumers are informed at point of sale about certain key service characteristics will be an effective way of achieving this objective. It is our considered view that the service characteristics of which the consumer should be aware are those relating to 999 access and number portability. Given the danger of overloading consumers with information and, thus, undermining its impact, we would urge caution in enforcing the provision of less critical details.

We have collated our views under each relevant section heading.

Regulatory Approach to VoIP Services

<i>question 1</i>

We recognise that telecommunications services are set to undergo considerable change. With the continued uptake of VoIP telephony and the roll out of Next Generation Networks (NGNs), it is an exciting time for both consumers and communications providers. Consumers can expect to benefit from increased price and product innovation with respect to voice services. In light of these developments, it is important that competition is allowed to develop as naturally as possible.

We respond to each of Ofcom's proposed objectives in the following sections.

i. Technological Neutrality

Technology neutral regulation creates a non-discriminatory environment shaped by competitive pressures and, as such, will tend to promote economic efficiency.

² <http://www.ofcom.org.uk/consult/condocs/voipregulation/voipregulation.pdf>

Typically, consumers' purchasing decisions are service-led, not based on underlying technologies and, as such, it seems entirely appropriate to adopt a regulatory approach that does not favour, or penalise, any particular technology model over another.

Easynet would, however, prefer the alternative phrasing used by Ofcom for this objective of "*seeking to ensure that regulation is technology neutral*"³ as Easynet does not consider that there is any particular reason for Ofcom to focus on "**enabling innovation in a technological neutral way**" (emphasis added).

ii. Well Informed Consumers

Easynet considers that there is a role for Ofcom in ensuring that consumers are well informed where

- (a) it can be demonstrated (using reliable evidence) that consumers are not well informed
- (b) there is (or, in particular circumstances, a risk of) significant consumer detriment arising from such a lack of information,
- (c) such a situation is likely to persist and
- (d) it is cost-effective for Ofcom, whether through regulation or other means, to remedy such a situation.

In relation to VoIP services, Easynet agrees that it is probable that the provision of information to consumers about the ability to reach emergency services via a VoIP fulfils these criteria, and, particularly in view of the fact that the consequences of inadequate information may result in the loss of life, we consider that information relating to the availability and reliability of access to emergency services is of a sufficiently critical nature to merit a precautionary approach.

As discussed below, we would urge caution in placing regulatory burdens on VoIP providers to inform consumers beyond this issue, as such burdens may reduce the benefits flowing to consumers from investment and innovation in such services.

iii. Ensuring a maximum availability of access to 999 services

We agree with Ofcom's objective of ensuring the maximum availability of 999 services. We note, however, that the concept of "*maximum availability*" is open to interpretation, and does not necessarily correspond to universal availability. For this reason, it may be preferable to specify this objective as "*optimal availability*" or "*seeking to ensure widespread availability of 999 services*".

Application of the General Conditions

questions 2-5

SLAs between network operators and 3rd Party PATS providers

We agree with Ofcom that there is a danger that a network could be considered a Public Telephone Network (PTN) by inadvertently, or unwillingly, carrying third party PATS. We also agree that it is impractical to expect all third party PATS providers to negotiate Service Level Agreements (SLAs) with all networks. The difficulties for both

³ [Paragraph 3.4 of the consultation document.](#)

network operators and third party PATS providers in this regard could persist even when the network provider is a PATS provider itself.

In conducting its risk assessment, the network operator would only be able identify specific measures that would protect the reliability of the PATS services (including its own) using its network of which it is aware. For network providers, it will be difficult to conclude what is “reasonably practical” in terms of 3rd Party PATS of which they are unaware and have no relationship with the provider.

Nevertheless, despite these difficulties we agree with Ofcom’s proposal that network operators and PATS providers should seek to negotiate SLAs on a case-by-case basis if the need for such agreements is revealed by the risk assessment that they carry out. We consider that this is a practical and proportionate approach. We also consider that a more prescriptive approach would make it more difficult to maintain a policy that is technology-neutral.

We note that Ofcom intends to conduct a review in 2006 of various General Conditions including GC 3 and suggest that these issues could be investigated further at that time.

Impact of Nomadic Services

A critical function of the emergency services is to identify the location of 999 callers when, for whatever reason, they are unable to inform the operator themselves. Nomadic services make this more difficult but not insurmountable. It seems apparent that as VoIP-user mobility increases, GC 3 in its current form may become less effective in optimising 999 availability. We are aware that Network Interoperability Consultative Committee (NICC) is currently assessing how nomadic services could provide location information and look forward to their findings. Meanwhile, self-certification by the user accompanied by consumer information at point of sale, as proposed by Ofcom, seems a sensible short-term solution.

Number Portability Issues

<i>question 6</i>

We agree with Ofcom’s proposal to modify General Condition 18 in order to make it apparent to all communications providers that in order to qualify as PATS (and, thus gain porting rights) they are required to provide reliable 999 access. We see the linkage of porting rights to reliable 999 access as a key driver to sustaining widespread availability of emergency services to consumers.

Consumer Policy

<i>questions 7-21</i>

We consider that it is important that consumers are made aware of any limitations to their voice service with regard to 999 access and number porting. We commend the work conducted by the New Voice Services Consumer Information Working Group and recognise the need for a code of practice aimed at ensuring appropriate levels of consumer knowledge.

Whilst we consider that it should be mandatory for consumers to be provided with some level of detail at point of sale, this should be tightly focussed on essential information. There is a danger that consumers will be given so much information that they are unable to take it all in or that they are put off reading it and, thus, render the whole process pointless. In light of this, there may be scope to pare down point of

sale information to the essentials in order to maximise its impact, with the opportunity to provide more detail in accompanying printed material. It is important that, if the provision of information regarding directory enquiries, directories, calling line identification, special measures for end users with disabilities, non-itemisation of calls and access to operator assistance is required, than it is done in a manner that does not lessen the impact of critical information such as the availability of 999 access and number portability.

We do not agree with the assessment that all of these functions have become “expected” elements of a consumer telephony service and, therefore, we do not consider that all aspects of the code of practice necessarily need to be mandatory. In fact, diminishing volumes of operator assistance and 118 Directory Enquiries calls demonstrate that consumers are no longer wedded to these services.

However, we do consider that the provision of data regarding access to the emergency services is essential and should be mandatory. In the absence of an established method of locating calls from nomadic services, we agree that it is appropriate to stipulate how VoIP providers communicate these limitations and how the nomadic user may manage that risk by registering the appropriate address details when using the service both from their principle location and remotely.

Other Issues

questions 22-28

As highlighted by Ofcom in section 9 of the consultation document, there are other issues in relation to VoIP that are likely to require further consideration in future.

As noted by Ofcom, one such issue is that of Naked Digital Subscriber Line (Naked DSL). Without further detail on what a Naked DSL product might look like it is difficult to provide a view on any resultant issues. We agree with Ofcom that it would be inappropriate for it to proactively intervene in relation to this issue at this stage. Were a dispute in relation to Naked DSL to arise, we consider a broad, consultative approach (i.e. tying this into Ofcom’s formal dispute resolution policy) on behalf of the regulator would be beneficial as we expect considerable industry interest in this issue.

With regard to call routing, it seems reasonable to encourage cross industry cooperation on a termination regime for 056 numbers but Ofcom’s position on this number range appears inconsistent. An approach that is intended to “*ensure that consumers aren’t disadvantaged by lack of connectivity when choosing to use an 056 number*”⁴ appears at odds with Ofcom’s recent numbering proposals⁵ that effectively treat this range as “reserved for future use”. In order to facilitate cross-industry cooperation in establishing a termination regime for 05, there needs to be greater clarity in the long-term plans for this range.

PATS Guidance to VoIP Service Providers

questions 29-37

Many VoIP service providers will be unaccustomed to monitoring PATS compliance. Previously, Public Switch Telephone Network (PSTN) operators were able to draw upon the “Network Integrity Guidelines” to ensure that they met their regulatory

⁴ Para 9.18, page 69 <http://www.ofcom.org.uk/consult/condocs/voipregulation/voipregulation.pdf>

⁵ “Telephone Numbering – safeguarding the future of numbers”
<http://www.ofcom.org.uk/consult/condocs/numberingreview/numbering.pdf>

obligations. We consider that it is useful that Ofcom has sought to provide some guidance to VoIP service providers on the appropriate areas for consideration when conducting their risk assessments. We note that the scope of the guidance excludes aspects of GC 3 and GC 4 that relate to a PTN but the withdrawal of the “Network Integrity Guidelines” will mean that network operators are likely to require further guidance on the integrity of their networks.

We also consider that it is important to highlight to consumers that PC-to-PC VoIP services are likely to be considered “content services” that effectively fall outside of the definition of Electronic Communications Services (ECS) as described in Article 2(c) of the Framework Directive⁶ and subsequently transposed in section 32(2) of the Communications Act 2003. As such PC-to-PC VoIP services cannot be PATS and are not subject to these guidelines or indeed the consumer information requirements that Ofcom intends to mandate within GC 14. We recognise the rationale in maintaining this distinction between content services (non-ECS) and ECS in respect of regulatory policy.

In relation to the guidelines themselves, the steps that a VoIP service provider may consider in respect of the IP network layer and service application layers appear to be a good starting point. Similarly, proposed elements of the formal risk assessment provide a high level “roadmap” for service providers. However, Ofcom states that, in investigating any potential breaches of GC 3, it will consider what SLAs VoIP service providers have entered into with underlying network operators. As Ofcom itself highlights, we would question how practical this could be with multiple service providers and network operators.

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⁶ Directive 2002/21/EC of the European Parliament and the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services