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**EXPERT GROUP ON EMERGENCY ACCESS
(EGEA)**

Working Document

Subject: Regulatory clarification of ECS/PATS and Fixed/Non-Fixed

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During the first meeting of the Expert Group on Emergency Access, clarification was requested on following regulatory topics:

- Classification of a providers' services as ECS (Electronic Communication Service) or PATS (Publicly Available Telephone Service)
- Distinction between services delivered at fixed or non-fixed location

1. CLASSIFICATION AS ECS OR PATS

- (1) According to the definition in Article 2 (c) of the Universal Service Directive 2002/22, a publicly available telephone service (PATS) means, as a minimum:
 - (a) a service available to the public
 - (b) for originating and receiving national and international calls; and
 - (c) access to emergency services;
 - (d) through a number or numbers in a national or international telephone numbering plan.

Note the cumulative nature of the points a) to d), which follows the definition in the Directive. 'Access to emergency services' is 'through a number or numbers in a national or international telephone numbering plan'.

- (2) Where a VoIP provider does not meet all the criteria of Article 2 (c), it cannot be considered to be a provider of PATS

Where a VoIP services does meet all these criteria, it becomes a PATS and has to be regulated as a PATS.

A provider cannot self-declare that they are a PATS provider, and thus get access to the corresponding rights and obligations, if they do not meet all four criteria.

Note that nowhere in the definition there is any restriction on the nature of the technology that may be used to provide PATS. Thus both wired and wireless technology may be used to provide PATS.

2. SERVICES AT FIXED OR NON-FIXED LOCATION

Clarification was requested on the concepts of

- Connections at fixed locations
- Connections at non-fixed locations
- nomadic services

Analysis

- (1) The term 'connection at a fixed location' arises in connection with universal service. The scope of Universal Service (Article 4 of the USD) includes provision of a *connection* at a fixed location, i.e. at the subscriber's premises. The connection may be provided using wired to wireless

technology. The subscriber may use a cordless phone to provide a limited degree of mobility.

- (2) *Services* can be provided either at fixed or non-fixed locations.
 - (a) In the case of a wired network, the provision of a connection is normally bundled with the provision of telephone service (but, with products like naked DSL, this is not necessarily the case).
 - (b) A mobile network provides a connection at a non-fixed location; the provision of a network connection is usually bundled with the provision of communications service.
 - (c) Voice over IP services may be provided over any suitable network connection. The provision of telephone service may be separate from the provision of a network connection, as is the case for 'nomadic' VoIP services.
- (3) Providers of PATS are entitled to number portability under Art 30 of the USD. This includes providers of PATS that offer nomadic VoIP services.
- (4) Providers of nomadic VoIP services are not 'providers of PATS at a fixed location'¹, and are not subject to the obligations of Art 23 of the USD on network integrity.

Conclusion

Where a service meets all the criteria of Article 2 (c) of the Universal Service Directive it will automatically be a PATS service; if it does not meet the criteria it cannot be a PATS.

Nomadic and mobile communications can, independently of the technology used (wired or wireless), be PATS if all criteria mentioned above have been satisfied. Those services have then the corresponding rights and obligations associated with a PATS service.

¹ "Some VoIP based services use what might be termed 'nomadic' access to the public telephone network. Users have the possibility to connect their terminal at any suitable access point, such as a WiFi hotspot, and are not limited to a fixed location.

To the extent that such services do not constitute the provision of 'PATS at a fixed location', they are not subject to the provisions on service availability described above."

From the Commission Staff Working document on the treatment of Voice over Internet Protocol under the EU regulatory framework