



Robindhra Mangtani
Competition Group
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

3rd May 2006

Dear Robindhra

Regulation of VoIP Services

I write with reference to the consultation document dealing with the above subject.

Tiscali is a member of UKCTA and supports the submission which will be made to Ofcom by UKCTA covering this consultation document.

Tiscali welcomes Ofcom's aim of helping to create an environment in which new technologies can be developed and deployed successfully in the market, ensuring consumers benefit from a wide and innovative range of services. Tiscali believes it is essential to have a clear regulatory framework to foster confidence for operators to develop offerings thus ensuring consumer choice. Tiscali welcomes Ofcom's support for the development of New Voice Services and is in general agreement with the proposed approach outlined in the consultation and in particular that all operators are subject to equal regulatory obligations and that innovation should be enabled through the promotion of the concept of technological neutrality.

Tiscali is also in agreement with Ofcom's view that ensuring consumers are properly informed and protected in relation to the services they are using is of vital importance and encourages Ofcom to continue to build upon the co-operative work with industry that has worked so well in this area. Tiscali agrees that widespread availability of access to emergency services is of vital importance and support Ofcom's initiatives to promote this. However, there is also a market for "secondary line" services and therefore not *all* voice services should be required to offer 999 access, provided that consumers are properly informed.

Tiscali fully appreciates that the interim forbearance position Ofcom took in 2004 is not sustainable and is supportive of the need for change and a review of the existing General Conditions. We are however wary that there is a risk of adding undue complexity by being too prescriptive or moving too quickly and stifling a market that has not yet fully developed by confusing consumers; clearly there is a balance to be struck. Tiscali is pleased that Ofcom has recognised and reacted to the uncertainty that many operators have experienced in recent times and welcomes the further clarity provided so far, although further discussion and thought is required in some areas before clarity can be achieved throughout.

Tiscali is aware that there is a range of issues with the General Conditions as they were written in a world that was entirely PSTN, with end to end network ownership by

BT. Time has moved on and the market developed to the extent that there are now multiple Network Operators and Service Providers. Tiscali agrees with Ofcom that the limitation of the General Condition 3 obligation to provide a service at a fixed location is not sustainable in the long term and further cross-industry discussion is required before a long-term solution can be agreed upon. Similarly, Tiscali supports the removal of the Network Integrity guidelines as they are PSTN-centric, but stresses that caution must be exercised with respect to the application of the reasonably practical test set out in General Condition 3.

Tiscali is supportive of the Consumer Code and the need to provide adequate protection. Whilst Tiscali agrees with Ofcom's proposed approach for informing customers when services including access to emergency calls may not be available or may cease to function, the extension to point of signature acknowledgement in respect of reliability of access to emergency calls may not be viable. Tiscali believes it is not practical to implement such a proposal, but is supportive of making the information available. Ultimately, it is up to customers to avail themselves of this functionality and exercise choice accordingly.

Tiscali also understands Ofcom's approach to the need to update location information, but believe it is impractical to enforce this. We are supportive of the idea of providing customers with the opportunity to update but this should not be done in an invasive manner. Tiscali understands that in relation to VoIP services a "flag" will exist to indicate to the emergency services that location information may either not be available or reliable. Therefore we believe the sensible approach is for the operator to request this information from the caller at the start of the call to confirm location information rather than relying upon the customer to keep it updated.

Tiscali is supportive of the need to have an effective number portability system to allow smooth migrations and facilitate customer choice and understands Ofcom's approach in relation to informing customers where services do not provide number portability. However, the proposed requirement for providers to actively make a statement prior to providing the product that number portability may not be available would create problems. We believe this to be an example of being too prescriptive and it could have a substantially negative effect, stifling the market and restricting uptake.

The Consumer protection guidelines developed by Ofcom and industry have proved that co-regulation in this area has worked very well. Tiscali does not therefore believe that this successful approach should be changed to mandatory enforcement and would welcome continuation of this good work in the spirit of cooperation. Tiscali nevertheless generally supports the enforcement approach outlined by Ofcom and agrees that Ofcom should enforce sanctions where operators are in breach of such guidelines or do not fully co-operate. Sufficient incentive exists to maintain conformance because of the negative impact that exposure of rogue operators has on the business of such operators.

Tiscali notes that Ofcom proposes that as technology and the market evolves further that it may be appropriate to make further modifications to regulation. It would be useful for Ofcom to outline what trigger points are envisaged in this respect. Tiscali supports Ofcom's proposal for on-going cross-industry meetings to move the outstanding and complex issues forward and is fully committed to being involved in this process.

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To conclude, Tiscali is generally supportive of Ofcom's proposed approach, however has concerns in some areas that Ofcom may be prescriptive in a way that could interfere with the natural evolution of the market. We would encourage Ofcom to maintain focus on key areas and not attempt to deal with every single issue identified as the transition from old telecommunications world to new continues. The transition period will pass and many of the detail issues should naturally resolve themselves without the need for regulatory intervention.

As mentioned above, please refer to the UKCTA response for further detail. Please contact me if you wish to discuss this letter and regard none of its contents as confidential.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R. Vernon', written in a cursive style.

Robin Vernon
Regulatory Manager

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