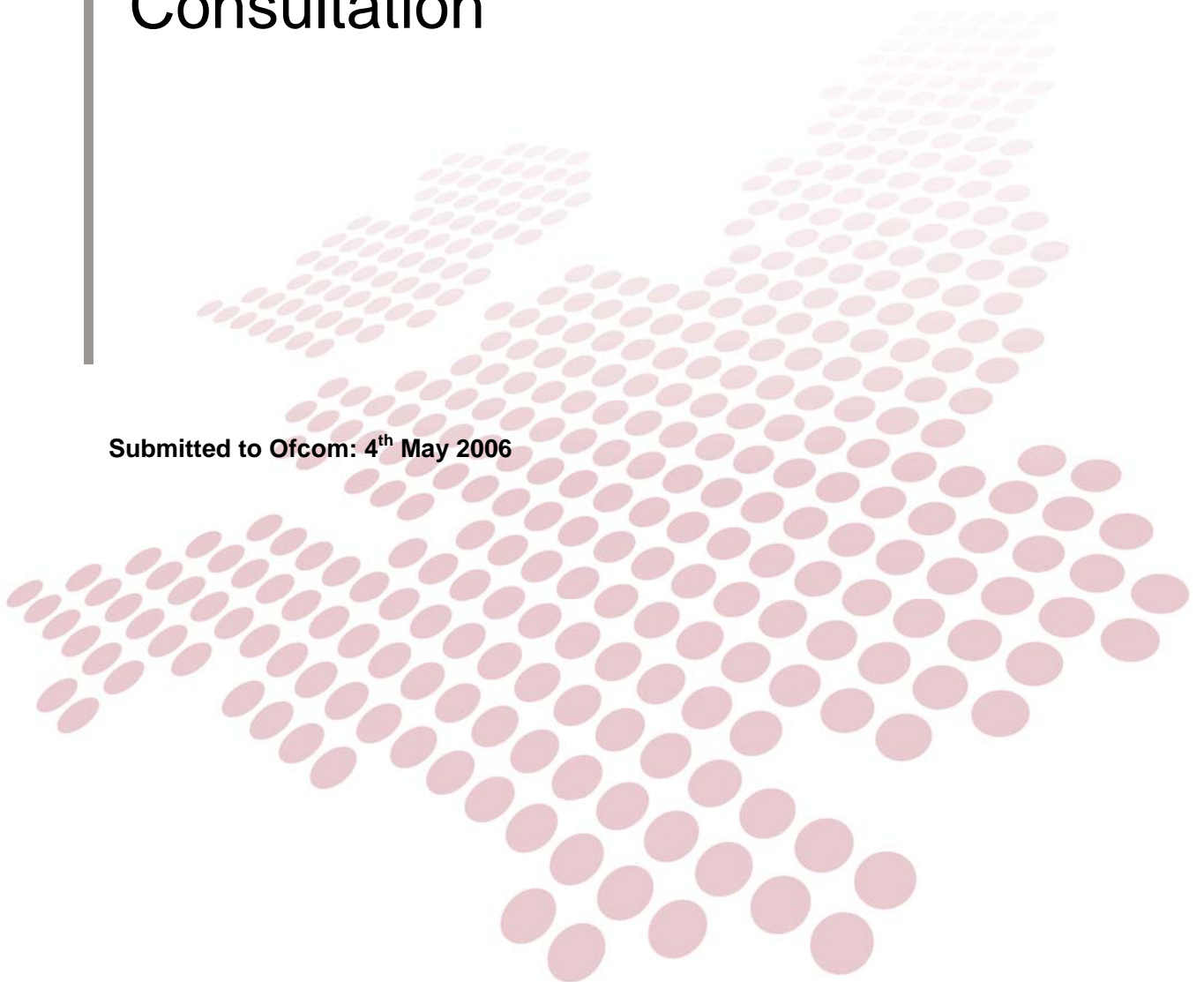


Regulation of VoIP Services

UKCTA Response to Ofcom Consultation

Submitted to Ofcom: 4th May 2006



Summary

UKCTA welcomes Ofcom's proposals and is supportive of the premise that all communications providers and service providers should be subject to equivalent regulatory requirements. UKCTA is particularly pleased that Ofcom's approach adopts the concept of technological neutrality.

UKCTA is also supportive of efforts to ensure that, in particular, residential consumers are provided with adequate and accurate information regarding the nature of the services they are buying. UKCTA members have been working with Ofcom and other parts of the industry to ensure that adequate consumer protection measures are put in place and will continue to do so.

UKCTA is however very aware that many of the current issues are part of the natural evolution of new services and technologies, and the current lack of awareness in the market place on how to adapt to and catch up with innovation. UKCTA also believes that the residential and business consumer will adapt to this change in different ways and timescales and regulations may need to differentiate in some instances between them.

General Overview

In recent years more customers, particularly in the business arena, have been taking advantage of VoIP technology to make and receive calls. This trend has now moved into the residential market with such services as Voice over Broadband ("VoBB") offering consumers an alternative to traditional telephone calls. In September 2004, Ofcom adopted an interim position regarding the regulation of VoIP services, pending further clarification from the European Commission. That interim position enabled providers of new voice services to offer access to 999 services, without having to meet all the obligations required of an operator or service provider that provides Publicly Available Telephone Services (PATS).

The objective of the interim policy was to ensure that any new services entering the market were not prevented or dissuaded from offering 999 access due to the nature of regulatory requirements, which could have been seen to be discriminatory. Consumer protection guidelines were also developed by the industry and Ofcom in order to ensure that residential consumers would have adequate and accurate information about the nature and capabilities of the services that had become available to purchase.

Ofcom has now revisited this interim position and is proposing that all operators, whether offering their services through traditional voice methods or VoIP based services, should be regulated in the same manner and be subject to the same regulatory obligations. UKCTA welcome this position but have reservations about

whether the same obligations should be applied to larger businesses, some of whom have been using VoIP technology for some years.

We also note that multi-line sites had been exempt from the “Essential Requirements” guidelines¹ and we take it that, in relation to line-powering, the removal of the Essential Requirements guidelines will have no effect on providers of services to such businesses. UKCTA would also like to point out that with such businesses, what happens within their network can only be an issue for themselves. Communications Providers provide services for them to a given address (the install address); how the relevant businesses then treat the calls over their own private network is not a matter for the Communications Provider.

UKCTA also believe that there maybe some confusion around IP delivery to the home and IP delivery in the core network.

UKCTA have endeavoured to respond to all the relevant questions and for ease have split them into sections, considering at the same time whether the question relates to business, residential or both.

Section 1 – Policy Discussion

Question 1: Given recent developments, do you agree that Ofcom’s focus should be on the following three objectives in developing our policy for VoIP services, namely (in so far as is possible):

- (i) enabling innovation in a technological neutral way,***
- (ii) ensuring consumers are well informed,***
- (iii) ensuring maximum availability of 999 services?***

VoIP, NGN and other developments that will occur in the future to provide voice service are all introduced for the benefit of the consumer, both business and residential, whether they be to provide cheaper services, more innovative services or just a better range of services. Regulation is required to ensure that competition continues to flourish, no one provider is advantaged over another and consumers (whether business or residential) are provided with products which meet their needs.

UKCTA is therefore in agreement that the three objectives identified are a good starting point: regulation should be technically neutral, information to the consumer is a must to be able to provide the service and accurate information against the service

¹ The Essential Requirements guidelines give an exemption in B.8 for line powering of multi-line installations.
http://www.ofcom.org.uk/static/archive/oftel/publications/ind_guidelines/guid1002.pdf

provided is a key issue. Providing availability of 999 services, particularly in the consumer world, is of pivotal importance. Ofcom should be working with the industry and relevant bodies to agree a method of being able to achieve a maximum availability of a 999 service for those customers wishing to use VoIP and have 999. We would therefore welcome a pragmatic approach, particularly on the subject of location information. While VoIP services would be the most obvious beneficiary, Voice over new technologies like WiMax would also benefit, where the physical location of a caller even within a single cell could not be pinpointed with any meaningful degree of accuracy. Having an option to indicate to the emergency services that location is uncertain would at least be an unambiguous indication that the caller's location is not reliably indicated by the CLI (or equivalent).

As we have already indicated, Ofcom's stated objectives may not necessarily be appropriate for the business environment, where consumers are arguably not as vulnerable. Given the importance to businesses of retaining their telephone numbers (and the scarcity of new number ranges) we question whether the link between number portability and access to 999 is appropriate in this instance. Some business customers actively choose not to receive access to emergency services from their VoIP provider.

Question 2: Do respondents agree with this approach for the interaction between network providers and PATS providers?

UKCTA believe there could be difficulties in expecting all VoIP providers to make commercial deals with internet access providers due to the number of VoIP and ISPs involved - the outcome of a thriving competitive market - and it could be difficult to justify commercially.

Question 3: Do you agree that the limitation of GC 3 obligation to providers of service at a 'fixed location' is not sustainable in the long term? What views do you have on how this may be addressed?

Nomadic services do not feature in current regulatory obligations and so UKCTA agrees with Ofcom's comments in 4.32 that nomadic services would fall outside of GC3 and therefore GC 3 stating 'fixed location' may not be sustainable in the long term. UKCTA propose that GC3 will need to be revised to give all communication providers regardless of their method of delivery a level playing field. UKCTA are however mindful of the current technical constraints and believe that work should be done with all operators to provide the best solution for the end customer with minimum confusion.

Question 4: In light of the other measures proposed in this document, are there particular issues in relation to VOIP services that should be addressed in this review?

UKCTA find this question difficult to answer as we are not entirely sure what is being proposed but believe that a review of the General Conditions is necessary to remove uncertainty surrounding treatment of PATS services.

As already identified UKCTA believe that there are differences between the Business and Consumer markets - the exemption of Businesses from the Essential guidelines is testament - with regard to this issue and maybe VoIP services depending on whether IP is in the core of being used as delivery to the home should be clarified as requiring different flavours of regulation.

Question 5: Are there particular issues in relation to VoIP services that should be addressed in this review?

UKCTA would be interested to know where and if VoIP services should sit within the current identified relevant markets and if thought has been given to the relationship between the Universal Service Directive and the principle of technical neutrality.

Question 6: Do you have any comments on Ofcom's proposed modification to the PATS definition in GC 18?

UKCTA believes that this is an area of concern, and on reflection believes that the issue of portability and PATS needs to be decoupled. Our reasons for this position are:

- i) the proposals put forward are ambiguous and could lead to additional confusion in the market place.
- ii) As written the proposal is subjective as to what an "inbound only" geographic call is, and could relate to various scenarios such as:
 - a. Standard 08/09 services
 - b. Standard inbound geographic numbers.

Further clarification from Ofcom is necessary on the current proposals vis-a vis the Universal Service Directive (USD). The final proposals should consider the appropriate consumer protection measures to ensure successful migrations and avoid consumer confusion.

Current proposals may lead to consumer confusion concerning their rights to port numbers. According to the USD, number portability is a "right" of PATS users; this is not in any way a prohibition on non-PATS users or Service Providers to voluntarily provide or agree processes with other industry members to provide Number Portability to their customers. The proposals seem to suggest the contrary and this would certainly confuse customers concerning distinction between their rights and options and, thereby adding complexity into any form of compliance programme.

Section B – Consumer Code

Question 7: Do you agree with the proposed application of the code?

UKCTA believes that the Code should apply to all voice services irrespective of their regulatory Status (ECS, PATS Etc) or their delivery mechanism. UKCTA does not have an issue with proposed timeline to comply and assumes that such a code is only aimed at the residential and small business user and that the large businesses will not be obliged to follow such a code.

However although UKCTA believe that the code of practice should explicitly only cover services to residential and very small business customers, in this instance we believe there is a need for Ofcom's proposal to link the provision of 999 access with the ability to obtain number portability to apply equally to providers of relevant businesses.

Question 8: Do you agree with the proposed approach for informing consumers that services may cease to function if the broadband connection fails or there is a power cut or failure?

UKCTA is happy with the approach suggested, but see or reference to large business users in answer to question 7.

Question 9: Do you agree with the proposed approach for informing customers where access to emergency calls is not available?

UKCTA is happy with the proposed approach, but see or reference to large business users in answer to question 7.

Question 10: Do you agree with the proposed approach for informing consumers that access to emergency calls may cease to function if the Data Network fails or there is a power cut/failure?

UKCTA is happy with the proposed approach, but see our reference to large business users in answer to question 7.

Question 11: Should the code be extended to point of signature acknowledgement in respect of reliability of access to emergency calls?

UKCTA understand the principle behind this suggestion but have concerns that it may not be practical and also believe that it is more relevant to residential users as opposed to business who will be aware of the functionality of the service when commercially negotiating their services.

Question 12: Do you agree with the proposed approach to location information providers where the service does provide access to emergency calls? In particular, do you believe that subscribers should be required to register their main location prior to activation of the service?

The approach seems a sensible way forward but UKCTA are unsure on the implications of customers who are using the service from overseas with a UK number, UKCTA are assuming that if a UK number is being used overseas then the relevant obligations will still apply although not sure how this can be enforced. Currently UKCTA understand that work is being undertaken with the emergency services and communications providers to provide a flag on numbers which are VoIP so that emergency services know that location information may not be exact and to check although again aware that not all providers of emergency services can provide a guaranteed flag. A point to note if this was made a requirement, the information will only be as good as the input of the individual user and could not be guaranteed.

Question 13: Do you agree with the proposed approach to informing consumers where services do not provide emergency location information?

UKCTA is happy with the proposed approach, but see or reference to large business users in answer to question 7.

Question 14: Do you agree with the proposed approach to informing customers where services do not provide number portability?

UKCTA understand the principle for such an approach, however UKCTA believes that if the main objective is to ensure consumer protection it is necessary to ensure consistent information is available in the market. The proposed Code of Practice should apply equally to all voice services irrespective of its regulatory classification.

The current proposals would require all providers to make a statement to the effect that number portability may be unavailable depending on the nature of the service which the customer intends to migrate.

Some members have serious concerns over the negative impact of applying this in the sales process and the possible impact this could have on the ability of customer to migrate and indeed the migration process.

Question 15: Do you agree with the proposed approach to informing consumers about the types of facilities that might not be available, but which they have come to expect from a telephone service?

UKCTA is in general agreement with the proposed approach but also believes it may be subjective for example what have customers come to expect of a telephone service and should this apply to all new services going forward can Ofcom explain what affects this may have on the consumer?

Section C - Enforcement

Question 16: Do you agree with Ofcom's view that all aspects of the code of practice should be mandatory?

UKCTA have mixed thoughts on this proposal:

- (1) does the code have to be mandatory on large businesses? UKCTA would suggest that it would not be necessary in such instances
- (2) UKCTA prefer a self and co regulation approach although understand that there will be instances where this will not be complied with and would suggest that there is regulation as a back stop. i.e. GC 14 should have the power to intervene should providers not comply

Question 17: Do you consider that the overall programme of activities is appropriate?

The package of programme information is limited in relation to being able to report and as such it is difficult to understand what message Ofcom will be transmitted. UKCTA support Ofcom's desire to keep abreast of market developments but are unclear with regard to the statement of taking appropriate remedial action. We suggest the timescales for formal revision of the impact of the proposals should be included in the final statement.

Question 18: In light of Ofcom's Consumer Policy Review, are there other consumer education measures that Ofcom should consider?

UKCTA would refer Ofcom to its response on consumer policy.

Question 19: Do you have comments on this proposed enforcement approach?

UKCTA supports Ofcom in its enforcement approach, UKCTA is keen to ensure that the voice market maintain its reputation as a highly responsible industry, Ofcom need to ensure it can deliver such as promise and be able to have the resource to manage accordingly.

Question 20: Are their other areas of research activity that Ofcom should consider to ensure it understands market developments?

This again is a difficult question to answer as the market is developing at such a pace in this area.

Question 21: In relation to ensuring high availability of 999 access, are their other measures that Ofcom could consider?

A way forward could be to create a short term industry group, which includes the emergency services, to discuss what other measures need to be considered in relation to ensuring high availability of 999.

Section D – Future and Other Issues

Question 22: Do you agree with Ofcom's approach to naked DSL?

UKCTA is not in a position to answer this question

Question 23: Do you agree a cross industry meeting would be a useful approach to move this issue forward? What other steps could be taken to provide support for 056 numbers?

UKCTA would be happy to participate in a cross industry meeting but believes that the opening and delivery of 056 is down to commercial agreements between relevant communication providers. UKCTA members are not able to openly discuss such commercial agreements between its members.

Ofcom should be wary of setting precedents that may put specific groups of customers at risk and should ensure the provision of end to end connectivity, using its enforcement powers if necessary.

Question 24: How can a VoIP call be traced for detection and prevention of malicious and nuisance calls? How could a suitable call screening service work in a VoIP network?

The question raised is a good example of where a cross industry meeting could help to resolve such concerns.

Question 25: Do you agree that SPIT could be a potential problem and what techniques can be used to minimise the impact of SPIT on consumers of VoIP services.

Question 26: Have there been any instances of a VoIP service being compromised or used to deliver malware or a DoS attack?

Question 27: Are there any other considerations that need to be taken into account when a provider does not have a UK entity?

Question 28: Is it reasonable to ask VoIP service providers to participate in schemes designed for e-commerce?

Question 29: Do you have any other comments on the proposed approach to investigating the application of the GCs applicable to providers of PATS in the context of VoIP?

UKCTA is happy with the proposed approach.

Question 30: Do you have any comments on Ofcom's views on the meaning of above mentioned terms and legal concepts?

UKCTA is not in a position to provide comments of a legal nature.

Question 31: Are there any other steps that a VoIP service provider could consider in respect of the IP network layer and service application layers to ensure network integrity?

This question raises a good example of where a cross industry meeting could help to resolve such concerns.

Question 32: Are there any other steps that a VoIP service provider could consider in respect of parts of the underlying network that they do not control?

This question raises a good example of where a cross industry meeting could help to resolve such concerns.

Question 33: What additional steps could a VoIP service provider take to support nomadic users with regard to maintaining network integrity?

This question raises a good example of where a cross industry meeting could help to resolve such concerns.

Question 34: Do respondents consider whether other options to ensure continuity in the case of a power outage are appropriate?

Question 35: What other steps could be taken to provide reliable location to assist the emergency services in their work?

Question 36: What other steps could be taken to provide reliable location to assist the emergency services in their work in the case of nomadic users?

Question 37: In addition to participating in the NICC working group on providing location in IP networks and the 112 expert group, what other steps should Ofcom take?