Consultation on New Voice Services.

About ITSPA

This is a response to the Office of Communications consultation on New Voice Services ("NVS") on behalf of the members of the Internet Telephony Service Providers Association ("ITSPA"), the UK communications industry group formed at the start of this year to represent network operators, service providers and other businesses involved with the supply of Voice over Internet Protocol services to business and residential customers within the United Kingdom.

Summary

ITSPA supports Ofcom's review of the issues arising from the introduction of New Voice Services and agree with most of the interim recommendations for NVS and would support the introduction of formal guidance on the treatment of VoIP services in the UK.

We strongly support the introduction of "light touch" regulation from Ofcom at this stage in the development of NVS services, a model which is being taken up around the world by regulatory organisations. We note that the USA is actively promoting this approach. At a recent meeting Michael Powell, the Chairman of the Federal Communications Commission stated:

> *"If we let competition and innovation rage, unencumbered by the high cost of regulation, consumers can expect more of the same, lower prices, more choice and more innovative offerings"*

ITSPA recognise that the introduction of new services (which have additional benefits, whilst not retaining all elements of traditional POTS services) can give rise to several regulatory policy issues. We are aware that Ofcom has several regulatory obligations which have to be reconciled with any policy towards NVS going forward.

ITSPA believe self-regulation would be the most efficient and effective form of regulation for new services like VoIP. ITSPA has drafted a Code of Practice for IP based voice services, based on the experience of its members, which it proposes to agree and introduce to ensure that clear and concise information is given to consumers on the current limitations of VoIP services whilst promoting this new market sector. We are especially keen where possible to ensure that information is given to users with disabilities who might be confused by new products, but recognise that this must be applied proportionately and must not be over regulated.

However, ITSPA does have concerns regarding the offering of VoIP from BT and other network operators in the United Kingdom in relation to fixed line origination/termination, as it appears that these services are not receiving or proposed to receive the same treatment as standard voice services. This difference in treatment may produce distortions in the market and result in discrimination against NVS.

ITSPA also endorses Ofcom's considerations in the Strategic review of telecommunications in considering the that regulation is applied to mandate the supplier of 'Naked DSL' lines, i.e. telephone subscriber lines without access to a traditional exchange line and the attached apportioning of the PSTN costs with only a connection to the ADSL DSLAM supplied. As Ofcom is aware this is currently not possible as the existing "Access ot Network Facilities". We would also note that the "Wholesale Line Rental" products offered by BT are not cost effective due to the inclusion of PSTN charges within their pricing. When a product such as Naked DSL is available will additional benefits of NVS services be realised. Similar issues need to be considered

regarding Unbundled Local Loop where this market will only suffcently develop and become viable when the incumberant provider is compelled to provide access on a true, realistic 'cost based' price.

We are also concerned that providers of broadband and similar data services might use their control over these circuits to degrade or block the provision of NVS services from alternative providers. We do not feel that regulation in this area is appropriate, but feel that consideration for consumers may be appropriate when selling a 'closed' or 'restricted' service.

Finally, we refer to our reply to Ofcom's consultation on number portability. We believe that the current UK portability model of 'onward routing' is a significant factor in reducing the potential take up of NVS services due to the increased costs and contractual complexity compared to possible 'central database' solutions. Research amongst our members has suggested that the consumer's ability to migrate their number to NVS and potentially back again could be a key deciding point when considering whether to take up a service based on NVS. We therefore strongly support the mandating of eligible services to have the benefit and burdens associated with number portability, subject to review of the network integrity requirements.

Response to specific consultation questions

*Question 1: What types of New Voice Services do you envisage becoming available in the future and what characteristics will they have that distinguish them from traditional voice service*s?

Ofcom identified in its first consultation and ITSPA outlined its views in response what services we would anticipate entering the market place.

One issue is essentially at what point does a service capable of conveying voice messages constitute an NVS and as such is subject to this consultation and subsequent regulation by the Office of Communications.

ITSPA would suggest that voice services which are conveyed via connection to the PSTN (whether by 56k voice channel or a higher speed, IP based connection), which use numbers from the National Number Plan constitute voice services which are able to be regulated by Ofcom.

ITSPA believes that NVS services will tend to provide more services, more features and be potentially more mobile/nomadic than traditional services, and will be provided by a much larger range of service providers allowing for significantly increased competition and innovation in the marketplace.

A key characteristic will be that voice services will become more like the existing market for Broadband connections with Consumers paying a flat monthly rate for all their telephony requirements, including international and mobile calls. The choice of provider will therefore be based on an evaluation of the monthly price versus the inclusive feature set offered by an operator.

Question 2: What are the main policy challenges raised by the introduction of New Voice Services for consumer protection and regulation?

ITSPA would suggest that in the majority of regulatory challenges raised by the introduction of the New Voice Services are already reflected in obligations under the Communications Act.

Specifically, ITSPA see Ofcom as having to achieve a balance between 3 main issues:
- ensuring and promoting open and fair competition between those offering NVS, BT and other circuit switched network operators/service providers;
- providing through clear guidelines and support of self-regulation that current consumer expectations of a voice service is either met or that consumers are clearly aware of the

differences between existing and New Voice Services at the point of purchase and subsequent use;

- maintaining the UK's lead in introducing "light-touch" regulatory framework for VoIP services within the European Union.

ITSPA believe in most instances a clarification as to how the existing regulatory regime should be applied to VoIP services will be sufficient, as demonstrated by the issue of access to number ranges for VoIP providers.

We would anticipate that several policy questions relating to NVS will arise as a result of BT wishing to retain its market leading position in the provision of retail VoIP services in the form of its BT Yahoo Communicator product and the allocation of numbers in the 05x number range. In this regard we note the proposals put forward by Ofcom in the Strategic review for equivalence. ITSPA would state that it regards NVS as needing to be identified as likewise being subject to equivalence in regard to access to CPS, Indirect Access and direct interconnection with BT and mobile operators.

In addition, due to the comparative low costs of launching and operating a VoIP service we would anticipate further queries to arise from the interaction with NVS services and alternate network operators with whom new entrants will be competing.

Another challenge for Ofcom will be to ensure that existing operators with significant market power do not use that power to try to exclude new entrants either by technical means, such as blocking access to other NVS providers over their broadband network, or by more traditional commercial means.

We would expect that the main challenge for regulatory policy is to ensure that any regulation applied does not restrict the development of a market or a technology whilst ensuring adequate consumer protection. ITSPA would advocate a light touch arrangement and encourages the use of a code of practice, as is currently being developed by its members as an appropriate way forward. ITSPA is keen to encourage measures to ensure that suppliers based outside the UK are likewise motivated to also sign up such a Code of Practice.

Question 3: Do you agree with the initial top level aims identified by Ofcom?

ITSPA agrees with the top level aims as identified, We would apprecate further discussion with Ofcom as regards to implementing them.

Question 4: Are there other aims and criteria that Ofcom should consider?

Ofcom should ensure that it also considers the correct position regarding NVS offerings by existing SMP suppliers. In particular ensuring that where appropriate equal access, CPS, Indirect Access and cost based interconnection should form part of the SMP operators offering.

Question 5: Are there other key policy questions that Ofcom should be considering?

Ofcom should be considering the role that portability has in the encouragement and support of launching of any and all types of NVS service. In particular it should be considering the regulatory, financial or contractual restrictions that are imposed by the use of an 'onward forwarding' portability system.

Ofcom need to also consider the subject of Naked DSL and Unbundled Local Loop, specifically in how support in this area can significantly increase growth in the NVS sector.

Question 6: Do you agree with Ofcom's initial view that it is not necessary for all voice services to provide the same standard features as traditional telephone services, and that we should instead

focus on enabling consumers to make informed decisions?

ITSPA agrees with Ofcom that it is not necessary for all voice services to provide all of what is currently defined

Question 7: Do you agree with Ofcom's Ofcom's initial view that it is not desirable to draw a distinction between the regulation of services that look like traditional services and those that do not?

ITSPA agree that it is not desirable to base regulation on the basis of their appearance beyond requirements to the point of sale for consumer terminals which resemble current POTS consumer handsets. ITSPA would suggest that making a distinction between services on the basis of their appearance is likely to create a form of regulatory arbitrage with the risk that service providers would attempt to qualify or benefit on the basis of the appearance of their service in the absence of substantive investment in the service itself. Whilst the introduction of service provider competition and new entrants can be welcomed, it is unlikely to produce any substantial medium to long-term consumer benefit in relation to investment in consumer services.

Question 8: Do you agree with Ofcom's initial view that a distinction should not be drawn between the regulation of second line services and primary services?

We do not agree with Ofcom's suggestion that the same level of regulation should be levied on primary and secondary services at this stage. This is on the basis that Ofcom would be proposing to impose the current range of obligations on all voice services. ITSPA would suggest that in order for the full range of VoIP services to be made available to consumers and in line with a de-regulatory approach that VoIP services which consumers will use as secondary services primarily on the basis of price or convenience. ITSPA would also suggest that introduction of a regulatory burden at this stage would act as an active disincentive for providers of VoIP operators to fulfil PATS obligations and/or would deter investment in New Voice Services.

ITSPA does recognise that once VoIP services become widely available and gain significant number of subscribers so as to be described as a sustainable competition in the UK that further consideration may be given to whether a deadline to remove a distinction between primary and secondary services.

Question 9: Do you think that a threshold should be set at which New Voice Services should be required offer the same features as traditional voice services? If so, how should the threshold be set?

ITSPA do not believe that it is sufficiently clear which VoIP mechanism(s) will become widely adopted within the UK nor what market definition would apply subsequent to the various market reviews on voice services. On that basis we feel that it is not possible to determine a suitable threshold that could be set at this point in time.

Question 10: Do you agree that most providers would want to offer at least a basic form of access to 999?

ITSPA's view is that those operators that wish to support number ranges and number portability will have to offer lifeline services in so far as it is defined by Ofcom in subsequent consultations. In addition we would argue that some VoIP operators in order to match competition with existing voice services will be driven to offer lifeline services as part of market competition.

Question 11: Do you agree with Ofcom's initial view that consumers sufficiently value having access to 999 in order for them to wish to retain at least one means of high quality (very reliable) access to 999 at home?

We agree that most consumers would wish to have access to a method they believe would provide a 'good' reliability of access to 999. However, this would likely to be equivalent to the service offered by a mobile GSM telephone and not compared to that of a fixed 'copper' line service. ITSPA believes that consumers value having a multiple ways to contact the Emergency services including Mobile, POTS and NVS and that there will be less emphasis on having one principal means of contacting the Emergency services in future.

Question 12: Do you agree with Ofcom's initial view that not all voice services should be required to offer access to 999 but that decisions about subscribing to and using such services must be properly informed?

We strongly agree that consumer awareness of accessing 999 is important and feature this in the Code of Practice that we are developing.

Question 13: Do you agree with Ofcom's initial view that given some new services may not able to offer the same degree of reliability for emergency calls as traditional voice services, it is better that these services are able to provide less reliable access to 999 rather than preventing them from offering any access at all?

Yes, on the basis that calls to emergency services are made in a range of situations such as calls via mobile where the call quality can be highly variable but nonetheless the call is completed. ITSPA believe subject to external factors the majority of 999 calls on PATS level NVS will complete.

Question 14: Do you agree with Ofcom's assessment of the costs and incentives for providers offering PATS?

Yes insofar as they are outlined with the consultation document.

Question 15: Do you agree with Ofcom's understanding of the implications of the definition of PATS contained in the Directives?

Yes but this is without prejudice to our views subsequent to the release of the European Commission's guidance on VoIP.

Question 16: Do you agree with Ofcom's understanding of the implications of this alternative approach?

Yes

Question 17: Are there policy initiatives in other areas related to New Voice Services that Ofcom should be considering?

As mentioned in our introduction, ITSPA believes that Ofcom should consider policy initiatives in the areas of reforming the rules and mechanisms for Number Portability and of making 'Naked DSL' as well as Unbundled Local Loop available to all subscribers if it wishes to ensure that New voice Services flourish in the UK and bring increased competition and greater functionality to the telecommunications marketplace.

Question 18: Although Ofcom is not consulting on its interim position, it would welcome your views on its interim policy to forbear from enforcing PATS obligations against New Voice Services which offer access to 999.

ITSPA agrees with Ofcom's position on the basis that:

a) Portability MUST exist between PATS providers if the customer requests it.

b) Portability CAN exist between PATS and non-PATS or between non-PATS and non-PATS providers, but can not be imposed on the providers.

Question 19: Is it reasonable to have different network integrity requirements for nomadic services compared to services at a fixed location, and how should consumers be made aware of this difference?

Yes. It should be the responsibility of a NVS provider to inform its customers about any adverse effects of nomadic use if this is promoted as a secondary feature of the product. However, if this feature is not promoted, encouraged or supported by the provider it might not be appropriate to impose this requirement.

Question 20: Do you think that it is better for Ofcom to:
- *Retain the Essential Requirements Guidelines in their current form;*
- *Re-issue the Essential Requirements Guidelines, incorporating additional guidance in relation to Voice over Broadband and Next Generation Networks; or*
- *Withdraw the Essential Requirements Guidelines, and apply the reasonably practical test set out in General Condition 3*

Option 3.

Question 21: Do you think that there are reasonably practical measures that providers at a fixed location can take even if they do not directly control the underlying network?

We believe that there are practical measures that a provider can take to increase the quality of the service offered, even if they do not have direct control over the access line. This would be proportionate to the type of service offered and could range from contractual SLA arrangements for the resale of the access-line (for the most demanding products) to simply ensuring good IP 'peering' arrangements, depending on the type of product and the method in which it is sold.

However, ITSPA do not believe that it would be practical to define or regulate any specific practice a service provder can or should take.

Question 22: What in practice should the roles of the network provider versus the service provider be for network integrity when the network provider has no control over the services offered over their network?

ITSPA's view is that regulation should only apply to the provider who is directly responsible for the provision and maintenance of the access line itself (normally copper pair). It is not reasonable to impose any regulation on an ISP or data network supplier who is not involved in the delivery of the PATS service.

Question 23: Do you agree that it is likely to be reasonably practical for analogue telephone and ISDN2 services to provide line powering but not other services?

Yes.

Question 24: What are your views on the technical feasibility of providing location information for nomadic services, both now and in the future?

Our view is that in the long term appropriate solutions will evolve to provide location information on VoIP and other NVS services. It is important to remember that location information has only been provided to 999 services via the mobile networks for a small percentage of the 20 year period in which they have been available to the public; therefore it would be inappropriate to mandate this at this time.

Technical solutions can and will be developed over the course of the next few years but ITSPA does not believe that there is any current mechanism that would provide reliable location information for nomadic services.

Question 25: What approach for emergency location would take account of current technical limitations, whilst ensuring that technical advances bring benefits to emergency organisations in the long run?

ITSPA would encourage the provision of location information today from all VoIP services that only provide service at a single, fixed location. This will ensure that in most cases this information is provided to 999 organisations. To ensure that invalid information is not supplied, no information should be given in the cases where the service is known to be nomadic, or likely to be so.

Question 26: Do you agree that consumer information is required where services look and feel like a traditional telephone service but not where services are clearly different (e.g. PC based services)?

ITSPA would suggest that there is a consumer expectation in regard to services which use a conventional handset arrangement. Where a service is connected to a PC, ITSPA would expect that consumers would either be advised expressly and/or intuitively realise that such services require their PC to be turned on and a broadband connection to the Internet in operation. We would expect the basis of such documentation to be reflected in any Code of Practice.

Question 27: Do you agree with a two stage approach to consumer information, first to ensure the purchaser is aware of the nature of the service at the point of purchase, and second to ensure all potential users are aware the service does not provide access to 999 at the point of use?

Whilst we agree strongly that this information should be provided at point of purchase, and within the product documentation, we do not agree that it should be required for providers to 'brand' the product itself as 'not for 999' on the physical terminal device. However, all operators should provide appropriate information if 999 (or similar emergency numbers) are dialled on the service.

Question 28: If consumer information is required to ensure that consumer interests are protected, which of the above frameworks regulatory framework, if any, is appropriate to ensure it is successful?

ITSPA supports a co-regulatory approach and hopes that it can look forward to working with Ofcom on the development and implement ion of a suitable Code of Practice. It is vital that additional regulatory pressure is not placed on the industry at this time as this will result in the UK falling behind the rest of the world in this key technological development.