



15<sup>th</sup> November 2004

Mr Justin Moore  
Ofcom  
2A Southwark Bridge Road  
London  
SE1 9HA

Dear Mr. Moore

**Ofcom Consultation:**  
**New Voice Services (concerning Voice over Internet Protocol (VoIP) and related matters)**

BABT is pleased to respond to the above Consultation. The questions raised by the Consultation are very wide-ranging, and have impacts beyond the immediate matters discussed.

In general terms, BABT has concerns that in a laudable attempt to stimulate development of new services, necessary underpinning regulatory provisions could be seriously weakened. In some cases there could be consumer problems with those Communication Providers who have made a conscious decision to offer more basic services, and who therefore are not minded to comply voluntarily with any Regulation that could be avoided.

A further point is that the term “VoIP” is a very general one, and unless great care is taken, some applications of the technology may be caught in a regulatory net which is unnecessary, whilst others may not be adequately controlled.

As an example, the use of VoIP techniques within a PSTN as a means to transport voice from one established telephone exchange site to another is probably of little or no consequence from a regulatory point of view. The customer still uses his conventional telephone and receives his bill through a substantially unaltered mechanism. BT’s “21<sup>st</sup> Century Network” would appear to be one of a number of applications of this type of technology.

At the other extreme, the use of VoIP – realised as VoB (Voice over Broadband) – to enable the user of a PC to visit a particular Web site and “dial” a telephone call to a fixed or mobile line anywhere in the world immediately raises large questions as to the accuracy of charging for such calls. The Point of Interconnect to the PSTN is likely to have no knowledge of the “A-number” i.e. the “telephone number” from which the call is being originated. The implications of this for compliance with General Condition 11 – Metering and Billing Accuracy – have yet to be fully understood.

## Responses to Ofcom's Specific Questions:

Q1 (From 3.13): New Voice Services – BABT does not have a firm view about which VoIP services will be successful. Many innovative ideas are likely to be tried out. Those that adequately address a market need at an affordable price will no doubt succeed.

Q2 (From 4.7): Main policy challenges – The way that PATS has been defined, possibly in Euro legislation, and applied in the Conditions, leads to some anomalies. The most important example in BABT's opinion relates to Charging Accuracy.

Q3, Q4: Nothing to add

Q5 (From 4.18): Other key policy questions? – As stated elsewhere, the interaction of the proposed relaxations for VoIP on other Schemes, such as Metering and Billing Accuracy and Quality of Service Indicators requires considerable care and some further thought.

Q6 (From 4.26) Are standard facilities necessary? – Not necessarily, but gradual introduction of more limited offerings might allow the public time to adjust to the situation. It is, however, necessary to be cautious in assuming that a "cut-down" service will remain a minor part of the whole.

Q7 (From 4.32) Is it reasonable not to regulate differently services that "look like standard services" and those that do not – Possibly, but it may need some time to phase in a change of expectations. In BABT's view it is much more important not to undermine the regulation of Standard Services.

Q8 (From 4.37) Is it reasonable not to regulate primary lines more stringently than second lines with more limited facilities? – BABT consider it might be feasible to treat all lines alike, whether or not they offer full facilities. However, there is scope for public confusion here. This needs to be managed adequately. The same arguments could have been brought to bear on "Prime Instrument regulation" a few years ago. This may not have lasted long, but it helped to smooth a difficult transition in practice. There is the point that even in domestic situations there will be some users such as baby-sitters, cleaners, au-pairs and visitors who are likely to be unfamiliar with the facilities available from a particular telephone. In a life or death situation, confusion and delay must not be created.

Q9 (From 4.39) Should there be a threshold above which full facilities must be offered? - Possibly, but how would this be policed? Suppliers would have the option to sell off a proportion of their business to wholly owned subsidiaries to keep below the threshold if it was a problem to them.

Q10 (From 4.49) Would all providers want to offer 999? – In our opinion, no. There will always be entrepreneurs who want to make money by undercutting the quality providers. A current example might be Calling Cards, which may be targeted at vulnerable sections of Society, and in some cases offer poor value for money.

Q11 (From 4.49): Will consumers keep at least one high quality access to 999? - BABT considers it

probable that this will happen only if the matter is regulated. Sadly, many vulnerable people do not appreciate the hazards of modern life, but some of them may also be among the most likely to adopt innovative services, particularly if they are cheaper. The combination does not bode well.

Q12 (From 4.49): Not every service to be required to provide 999, but information must be given: - In BABT's opinion, this is inadvisable. The universal 999 service was created at considerable cost to meet real needs, and to sacrifice it, whilst hoping that people will understand where it is, and is not, available, is too risky. The most vulnerable are probably too ill-informed or rash to take any notice and the least likely to understand the significance. An example of what can happen here is the Morecombe Bay tragedy, where many victims used mobile phones to call their families in China, but lacked the knowledge to summon the local emergency services. We should not allow the situation to be made worse.

Q13 (From 4.56) Allow less-reliable 999? – BABT would not oppose this, provided there are incentives to make it as good as it the technology allows.

Q14 (From 4.71): Agree with Ofcom's assessment of costs & incentives for PATS? – This is hard for BABT to judge, and would seem to be a question for the Communications Providers.

Q15 (From 4.71) – Agree with implications of PATS – BABT broadly agrees with Ofcom's analysis so far as it goes, but as noted elsewhere, one of the most important items for Consumer Protection is Condition 11, which needs dealing with.

Q16 (From 4.76): Agree with analysis of Ofcom's alternative approach? – If Communications Providers are “allowed to choose if they are providing PATS” (See 4.73) then this would make a mockery of other areas of regulation that are tied to “PATS”. One example would be Metering & Billing Approval as stated above. This whole area needs European Commission clarification. Surely it is not acceptable to allow CPs to bypass a whole range of Consumer Protection Regulation simply because they are offering an innovative service?

Q17 (From 4.77): Are there other policy initiatives in other areas related to new voice services that Ofcom should be considering? – Yes. The immediate example, as already stated, is Metering & Billing Accuracy Approval. Anything else tied to PATS also needs careful examination.

Q18 (From 5.9): Interim policy to forebear from enforcing PATS if New Voice Services offer 999 – As stated above, this could have disastrous effects in other areas. The “forbearance of enforcement” should not apply beyond the requirements for 999 provision.

Q19 - Q22 (From 6.9 – 6.24): Network Integrity Requirements: BABT understands the reasoning behind the desire to have different (lesser) network integrity requirements for some services. However, in BABT's opinion it is crucial to ensure the PSTN in whatever form it may eventually manifest itself, is robust enough to handle what circumstances may throw at it.

It is at times of “Natural disaster and malicious acts” (Section 6.3 of the Consultation document) that

reliable communications are vital to the saving of life and prevention of avoidable danger.

It is at precisely such times that the PSTN is under greatest strain, and with current and evolving technologies being vulnerable to overload, a minimum requirement for survivability is essential. It is not sufficient to look at historical performance in times of normal operation, when what is required is survivability in times of stress, however caused.

Whilst it may seem attractive to reduce the requirements for start-up services, the way that General Condition 3 is framed has led to the anomaly that fixed line providers have survivability requirements that mobile operators do not to have. This may have made sense in the early days of TACS, where only a few owned a mobile phone, but today GSM services are crucial at the site of a disaster and such strain on a network is likely to be the cause of failures which may lead to avoidable loss of life. It would no doubt be difficult to impose requirements retrospectively because of the new situation.

Today, it may seem attractive to treat VoIP as a “Novelty Service”, but if, as with Mobile Telephony, the new technology ‘takes off’ there could be significant problems in maintaining a sufficiently robust service that can cope with the demands made upon it and on which the public can rely.

In this context, General Condition 5 (Emergency Planning) should be considered equally as Condition 3.

Q23 (From 6.28): Line Powering – It would seem reasonable not to expect line powering from New Voice Services, provided that Mains Failure would not prevent the origination of 999 calls. Local battery powering would seem the obvious, though perhaps expensive, solution to that particular problem.

Q24 & Q25: (From 6.33 – 6.36) – Location Information – It is recognised that this is a difficult area, but at this moment, BABT does not wish to add to the points mentioned in the Consultation Document.

Q26 & Q27 (From 7.13): Consumer Protection – BABT consider it to be essential that consumer information should be made available where a new services “looks and feels like a traditional service” but does not provide key facilities such as 999 access.

However, it is not proven that such advice should be limited to this matter. It ought to be made clear if there are other corners being cut – for example if the Communications Provider has been released from PATS requirements, and therefore is not required to have the accuracy of his billing checking by an independent and competent agency.

These matters are appropriate to easily understood marking on the outside of the packaging for consumer goods, so the potential customer is informed before he finalises his decision to purchase.

Where a 999 call is attempted unsuccessfully, a suitable recorded announcement in English should be the minimum. “Number Unobtainable Tone” may not be understood as an indication that they need to use an alternative telephone.

Serious thought ought to be given to the consequences of an inability to contact the Emergency Services in a society which is increasingly adopting the “Compensation Culture”.

Q28 (From 7.28): Self-Regulation, Co-Regulation or Direct Regulation – The industry does not have a good record of self-regulation. BABT was closely involved in the “Comparable Performance Indicators” initiative. This foundered because voluntary participation and self-regulation failed to achieve co-operation from at least half of the target industry players, and those in the Scheme then began to withdraw. It is recognised that Ofcom would prefer the lightest touch consistent with achieving the desired outcome, but experience suggests that Self-regulation is a non-starter and co-regulation may prove too weak in the event.

The following comments relate to the stated sections of the Consultation Document:

Section 1.7: It is noted that in the third bullet Ofcom are referring to the need for “Consumers’ decisions to be informed” in relationship to the availability of 999 services. This is praiseworthy, but may overlook the fact that the “Purchaser” of a piece of apparatus may not be the same person as the “User”.

How the actual user in practice should be informed of the non-availability of 999 services is an interesting question. Some situations allow many different users access to a single piece of equipment, and few of these users will know what was in the User Guide, or on the wrapping. Telephones in schools or Payphones in Licensed Premises might be two examples. The Consultation does not appear to cover this adequately.

A further thought here is that speech quality can suffer where VoIP is used and the network is congested. If a caller has to repeat himself and therefore the call takes longer than necessary, he may be charged more because of the increased duration. How would users be informed of such a shortcoming?

Main Consultation Document Clause 2.10, also Clause 3.3 Fig 1

These clauses really ought to identify the Metering and Billing Approval Scheme as a related area of Ofcom’s work.

Section 2.13: BABT notes that Ofcom is considering separately the impact of BT’s 21CN and peers on the regulation of such things as CPS. It is of particular importance that the requirements of Condition 11 for Billing Accuracy are kept in the forefront of thinking in doing this. The way that VoIP works is to discard those packets arriving too late for inclusion in the live speech flow. If that algorithm were to be used in the area of data packets carrying charging information, there would be serious problems with inaccurate bills.

Section 3.10: The provision of a PBX like service for a Business would offer the opportunity to route 999 calls via an alternative carrier medium to overcome the limitations of VoIP. Regulation or at least Guidance here would be very valuable.

Section 4.12: “Informed decisions” could usefully be promoted by using the revised Comparable Performance Indicators initiative.

Annexe 8 Section 29, Condition 16: Calling line identification (CLI): BABT would assume that the provision of CLI for a call originated using VoB would be as difficult as identifying the A-number for billing purposes, as mentioned above.

Annexe 8 Section 30: To the list of “primary issues” we would add “Metering and Billing Accuracy”, which we feel has not been adequately addressed in the Consultation.

We hope these comments will be of assistance to Ofcom.

Yours sincerely

Paul Ebling  
BABT Manager Metering & Billing  
E-mail: [Paul.Ebling@babt.com](mailto:Paul.Ebling@babt.com)