



**Internet Services Providers'
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Dear Mr Moore

The Internet Services Providers' Association (ISPA) UK welcomes the opportunity to submit comments on the New Voice Services Consultation.

ISPA's response has been informed by contributions from members of the Ofcom-liaison and Broadband subgroups.

ISPA further attended Ofcom's short meeting at Riverside House on 4th November, where the current self and co-regulatory frameworks were set out, and Ofcom outlined their favoured approach to the regulation of new voice services.

ISPA also intends to be an active participant in the new working group, proposed by Andrew Heaney at the Ofcom meeting, whereby all participants will be party to discussion and development of a code of practice for new voice services.

ISPA is encouraged that it is Ofcom's stated aim to allow new services to enter the market whilst empowering consumers to make informed decisions and take advantage of new services.

Yours sincerely,

ISPA Secretariat

ISPA

ISPA welcomes the opportunity to submit comments on New Voice Services consultation. ISPA recognises the importance of new voice services and the fact that new voice services have the potential to deliver substantial benefits to consumers as well as impacting on ISPs.

The Internet Services Providers' Association (ISPA) UK is the trade association for companies involved in the provision of Internet Services in the UK. ISPA was founded in 1995, and seeks to actively represent and promote the interests of businesses involved in all aspects of the UK Internet industry. Its membership includes Internet service providers (ISPs), cable companies, web design and hosting companies and a variety of other organisations. ISPA currently has over 100 members, representing around 95% of the UK internet access market by volume.

A full list of members is available at:

http://www.ispa.org.uk/html/about_ispa/ispa_members.html

Introduction

As set out in paragraph 1.7, ISPA supports Ofcom's recognition that a balance needs to be achieved between creating the right conditions in which new voice services and new providers can enter the market, and ensuring that consumers are properly informed and protected.

ISPA further supports Ofcom's proposed light touch approach with regards to the proposed regulatory framework (Section 4.6) whereby providers are able to offer a diversity of services, and are not prevented from offering services that are different from traditional services and where consumers can make informed decisions about the services they are using.

ISPA's response is informed by an underlying belief that voice service providers will wish to offer a variety of different products to consumers. ISPA welcomes Ofcom's review of the regulatory regime ensuring that it is appropriate for all voice service providers and not just those offering voice services based on traditional switched-voice PSTN networks.

ISPA does not believe that these new regulations will give rise to a disincentive to new voice service providers to provide access to 999 and 112 services, but will act to safeguard those who do not provide this service, and also uphold those who do offer access to 999, but do not wish to comply fully with PATS obligations. The regulations therefore offer flexibility with regards to service provision, a position ISPA is in agreement with.

ISPA fully recognises that the deregulatory approach proposed by Ofcom requires voice service providers to provide greater transparency in what features and services their products offer so that consumers can be adequately protected. ISPA fully supports the need for an industry agreement, or industry Code of Practice and has committed to work closely with other industry bodies and individual operators to establish such a scheme.

ISPA's detailed response focuses on the questions asked in the consultation document.

Section 3

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 services?

New Voice Services are distinguished from traditional voice services due to methods of delivery. A change of the types of services provided is therefore inevitable, particularly due to the fact that some Voice over Broadband services can be provided independently of the ISP and the underlying access operator, which is clearly a move away from traditionally provided voice services.

A liberal environment, as proposed in Ofcom's consultation document will allow innovation and the future creation of a plethora of communications devices, combining traditional PSTN, secondary networks and a combination of both. A plurality of service provision is envisaged, but ISPA would further expect that resulting services would be subject to market forces, and consequently service and software providers will innovate actively in response.

ISPA also envisages that the development of new voice services signify a move away from the traditional billing mechanisms of PTSN, particularly metered billing.

Additionally, the increasing success of mobile technology is making delivery of mobile services increasingly feasible, and the flexibility associated with new voice services will enable a wide spectrum of service provision.

Section 4

2 - What are the main policy challenges raised by the introduction of new voice services for consumer protection and regulation?

ISPA believes the main policy challenges are threefold – namely the implementation of an effective policy which supports both innovation and consumers.

- i. ISPA agrees that new voice services will have potentially far reaching implications for both consumers and providers of communications services (Section 4.3). This poses the challenge of adequately meeting the needs of both providers of and users of the service.
- ii. ISPA particularly recognises the challenge that it will be to create the right balance between effective policies which provide sufficient protection for end-users of New Voice Services, while not stifling future innovations.
- iii. ISPA believes that a major policy challenge will be to ensure that consumers are well informed.

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

Essentially, ISPA agrees with the initial top level aims identified by Ofcom.

- i. **To help create an environment in which new technologies can be developed successfully in the market, so that consumers can benefit from a wider and more innovative range of services.**

ISPA agrees that this allows a competitive market for ISPs to operate in. As mentioned in ISPA's response to question 1, ISPA fully believes that innovation will shape future voice services, and therefore the environment in which they operate must encourage innovation.

- ii. **To ensure that consumers are properly informed and protected in relation to the products they are using**

ISPA agrees that consumers need to be properly informed with regards to the products that they are using. Furthermore, full consumer education will help to ensure that undue expectations are not put on Internet Service Providers.

However, ISPA believes that the word 'protected' is used out of context in this statement (paragraph 4.14). Appropriate consumer education implies that consumers, as long as they are properly informed, can take responsible decisions on their own behalf. Furthermore, consumer legislation already exists in the UK to provide for general consumer protection; and dispute resolution schemes are already in place for all providers of electronic communications services. Additional measures of protection in this context are not necessary.

- iii. **To limit the extent to which regulation creates distortions in the market.**

ISPA particularly welcomes the limitation of regulatory distortions, and the promotion of competitiveness and associated safeguards. (Section 4.13)

ISPA encourages the establishment of a level playing field but understands that, at least in the short to medium term, traditional voice services are likely to continue to be subject to today's regulations as consumers will require a transitional period as their expectations and understanding of new voice services are adapted.

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

ISPA welcomes the consideration of desirable policy terms in order to achieve the appropriate balance between creating the right market conditions for innovation and market entry, and ensuring that consumers are properly informed and protected. (Section 4.15)

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

ISPA would encourage Ofcom to consider the difference between service provision and software provision, in order to differentiate between a service provider providing a service, and a software provider making available software to facilitate the user exploiting existing transmission services to which he or she subscribes (eg: Skype).

It is also important to take into consideration those services which are provided from outside the UK to UK consumers to ensure that these service providers do not obtain a regulatory advantage over those providers based in the UK.

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?

ISPA is not able to predefine how services can be put together. However, ISPA agrees with Ofcom's initial view, as this supports liberalisation, thereby avoiding unnecessary regulatory costs.

7 - Do you agree with 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.

ISPA agrees with Ofcom's initial view that it is not desirable to draw a distinction between those that look like traditional services and those that do not. ISPA draws attention to the fact that what looks like traditional services will change rapidly due to the fast pace of change in this field. ISPA further highlights the possibility that drawing distinctions between traditional services, may well influence the development of future technologies in order to avoid the regulations. Nevertheless it may be that a transitional period is required during which PSTN based voice services continue to be more heavily regulated while consumer's expectations are adapted to the new environment.

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?

ISPA agrees with Ofcom's initial view that a distinction should not be drawn between the regulation of 'second line' and 'primary' services. ISPA believes that there is no objective way of deciding which is a primary or secondary line, and as such they should not be regulated differently.

9 – Do you think that a threshold should be set at which new voice services should be required to offer the same features as traditional voice services? If so, how should the threshold be set?

ISPA does not think that a threshold should be set at which new voice services should be required to offer the same features as traditional voice services.

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

ISPA believes that the provision of 999 services is a commercial decision that should be optional to service providers. ISPA believe that on running a cost benefit analysis, most service providers will consider that it would make commercial sense to offer their customers access to 999, as most consumers will wish to have access to 999 in some form. However, as many consumers now have various ways of making voice calls, particularly mobile, consumers will be able to make effective choices as to the most appropriate manner to call the emergency services, depending on the way they live their lives. Access to the emergency

services will become one of the many attributes on which new voice service providers will be able to compete.

However, at present Internet Service Providers do not have to offer access to 999 as they are providing an internet based service. ISPA does not believe that it necessarily follows that they would want to provide such service in the future.

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?

Yes. As with other market choices, it is the choice of the individual.

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?

Yes, but consumers need to be adequately protected. The creation of an industry code of practice as mentioned in ISPA’s introduction to consultation, would help to ensure a basic provision of information to all consumers using New Voice Services.

13 – Do you agree with Ofcom’s initial view that given some new services may not be 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?

ISPA agrees with Ofcom’s initial view that it is better for services to provide a lesser access to 999 than no service at all, but that this shouldn’t mean that a service provider is compelled to provide access to a 999 service, rather this should still be optional. However, ISPA agrees that if a 999 service is not offered then it is important that consumers are adequately informed.

14 – Do you agree with Ofcom’s assessment of the costs and incentives for providers offering PATS?

The answer to this question is conditional upon one’s understanding of the benefits of PATS.

15 – Do you agree with Ofcom’s understanding of the implications of the definition of PATS contained in the Directives?

ISPA agrees with Ofcom’s understanding of the implications of the definition of PATS.

16 – Do you agree with Ofcom’s understanding of the implications of this alternative approach?

ISPA supports Ofcom’s recommendation set out in paragraph 4.72-4.76 presenting the alternative approach under which a service qualifies as PATS.

ISPA particularly supports the recommendation that providers should be allowed to choose whether or not they are providing PATS, even if they do offer the four core elements of PATS as set out at paragraph 4.64.

17 – Are there policy initiatives in other areas related to new voice services that Ofcom should be considering?

ISPA believe that there may be various issues including economic and security issues, that could potentially be considered alongside the application of new voice services, but believe that Ofcom should focus on the issue at hand.

Section 5

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.

ISPA agrees with this view. ISPA also supports Ofcom's initial view that it does not seem reasonable for network providers including providers of broadband access to take direct responsibility for additional network integrity requirements when PATS is independently provided over their network.

Section 6

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

ISPA believes that it is reasonable to have different network integrity requirements for nomadic services compared to services at a fixed location. Consumers could be made aware of this difference through a statement of provision of services. Alternatively this could form part of the voice service code or practice.

20 – Do you think it is better for Ofcom to:

- 1 – Retain Essential Requirements Guidelines in their current form;**
- 2 – Re-issue the Essential Requirements Guidelines, incorporating additional guidance in relation to Voice over Broadband and Next Generation Networks;**
- 3 – Withdraw the Essential Requirements Guidelines, and apply the 'reasonably practical' test set out in General Condition 3**

ISPA believes that it is better for Ofcom to Re-issue the Essential Requirements Guidelines, incorporating additional guidance in relation to Voice over Broadband and Next Generation Networks.

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?

ISPA believes that this should not be regulated – rather accepted as a form of best practice. Ofcom's proposal that service providers could negotiate service level agreements on quality

and reliability with the network provider, even if the service provider does not directly control the network is not accepted. (Paragraph 6.22)

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.

ISPA believes that the key role of the network provider will be at the point of sale, rather than the point of use. ISPA would encourage the clear conveyance of service information at the point of sale, and iterates that where a network provider has no control over the services offered over their network, they should not be held responsible for any resulting implications of the use of such a service unless they have contractually agreed such responsibilities with the service provider.

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

ISPA agrees with Ofcom's thinking in paragraph 6.26, and agrees with Ofcom's analysis of providing line powering and the associated issues as set out in paragraph 6.27 and 6.28.

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

ISPA considers that this is technically very difficult at present, although it is likely that such features will be developed in future. However, such features will have their own commercial benefits which will encourage their development (as demonstrated by mobile location services).

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

ISPA will encourage all ISPA members to contribute to industry working groups on these issues.

Section 7

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

ISPA believes that consumers need to be aware of exactly what they are signing up for. This will help to guard against and avoid future confusion over service provision, safeguarding both consumers and ISPs.

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.

ISPA does agree with the two stage approach to consumer information. However, this should not be overly prescriptive, but should encourage flexible implementation, and leave it up to ISPs to decide how they are going to do this. Nevertheless, a code of best practice could be agreed which identifies the minimum key parameters which all marketing must address.

28 – If consumer information is required to ensure that consumer interests are protected, which of the above frameworks, of any, is appropriate to ensure it is successful?

Initially ISPA recommends a self-regulatory approach, including codes of practice.