

**Cover sheet for response to an Ofcom consultation**

**BASIC DETAILS**

**Consultation title:** “New Voice Services”

**To (Ofcom contact):** Justin Moore

**Name of respondent:** Adrian Askew

**Representing (self or organisation/s):** Connect - the union for professionals in communications

**Address (if not received by email):**

**CONFIDENTIALITY**

**What do you want Ofcom to keep confidential?**

Nothing

Name/contact details/  
job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation to be confidential, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

Yes

No

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once the consultation ends

Name Adrian Askew

Signed (if hard copy)

**OFCOM CONSULTATION DOCUMENT  
ON NEW VOICE SERVICES:  
SUBMISSION BY CONNECT - THE UNION FOR  
PROFESSIONALS IN COMMUNICATIONS**

**INTRODUCTION**

Connect represents 20,000 telecommunications staff working in around 20 companies, both fixed and mobile operators, both incumbent and competitor operations. These companies include BT, Kingston Communications, Cable & Wireless, O2, Vodafone, T-Mobile and Inmarsat. Furthermore some of our members work as independent telecoms consultants. This gives us a unique perspective on the British telecommunications industry.

We welcome the Ofcom consultation on "New Voice Services" and forward this submission on the questions contained in the consultation document of 6 September 2004.

Our basic position is as follows. VoIP services will provide many benefits to consumers in terms of more choice of voice provider and tariff package, cheaper calls, and enhanced services. Therefore there is a need to strike a balance between creating a climate in which the development of such services is not hampered by excessive regulation and between protecting consumers who might otherwise expect VoIP to be, or treat VoIP services as being, equivalent to Publicly Available Telephone Service (PATS) services in areas such as the ability to contact emergency services. Another general point to make is that, while we do not expect that all VoIP providers will meet all PATS standards in the immediate future, we would expect them to make 'best endeavours' to approach such standards and progressively to approach those standards as technology and market conditions develop,

We set out in this submission our responses to the questions posed in the consultation document but, in our view, these questions do not adequately cover two issues that we feel are of critical importance.

First, the role of investment. New voice services depend on new communications networks. Many companies will be providing such services; many fewer will be investing in such networks. We wish to see a regulatory framework that encourages and incentivizes the large-scale investments that are necessary to create Internet Protocol (IP) networks of the kind that BT is building with its 21<sup>st</sup> Century Network (21CN) and other companies, such as the cable and mobile operators, are developing. This requires a close coordination by Ofcom of this review on new voice services with the on-going strategic review of telecommunications. The regulatory framework must provide clarity and stability to encourage such investments and an adequate return on those investments to ensure fair competition.

Second, the role of citizens. The Communications Act 2003 requires Ofcom to further the interests of both citizens and consumers, but the consultation document on new voice services appears to focus almost exclusively on consumers. For some time, it will be a small minority of consumers who will avail themselves of VoIP-type services and, in the main, these will be consumers who are already relatively advantaged (by, for instance, already having a broadband connection). The priority for citizens is to create for the UK a world-class communications infrastructure that reaches all homes and businesses and provides both international competitive advantage and enhanced access to a wide range of services including local and national e-government.

These two points are linked. For competition between network and service providers to be fair and for all citizens to share in the benefits of such new networks and services, we need a policy framework for regulation that makes infrastructure investments both likely and worthwhile.

**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 services?**

We expect that initially VoIP services will be marketed on the basis of cheaper calls or 'free' calls (with calls bundled into the cost of a broadband rental agreement). In the absence of regulatory safeguards, initially too much consideration may not be given to quality of service and – more seriously - access to 999 services may be problematic.

As the market becomes more mature, quality of service is likely to approximate that of the PSTN and access to 999 services may become quite good. New features will then become part of the offerings with conferencing and integrated messaging likely to be among the more popular services.

Unlike voice over the PSTN, new voice services are likely to be offered by unfamiliar players (as well as well-known companies like BT) and be subject to much more rapid development and change. The increasing deployment of the Session Initiation Protocol (SIP) will enable third parties to write their own software applications in order to enhance voice functionality and by-pass existing operator networks.

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

Basic voice telephony has been with us for a century. For much of that time, there was a monopoly provider; more latterly with competition, there have been strong regulatory standards exemplified by the European Commission's Publicly Available Telephone Service (PATS) requirements. Therefore consumers have very clear expectations of their voice services. If these expectations are to be changed in relation to certain new voice services, then this process will need to be carefully and sensitively managed. In some respects, there is a precedent for this: when mobile services were introduced, users had to learn that coverage was not universal and quality of service was inferior to that of PSTN.

In the case of new voice services, there are two particular problems. First, for the initial few years, users of such services will be very much in the minority and the services will probably be used by the more technologically-aware consumer. Second, there will be services which – unlike a mobile service - 'look and feel' like a PSTN service; this will be especially the case where an adapter is used with a conventional telephone or where an IP phone is used.

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

We believe that the top level aims are the correct ones, but that the second needs to be strengthened by the addition of the words "*particularly in relation to access to emergency services*". It is important that consumers know about any problems in relation to connectivity and call quality in relation to new voice services, but it is vital that they know about any limitations in relation to reliability of 999 access since this could be literally an issue of life and death.

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

The three top level aims identified by Ofcom are stated in static terms; we feel that there is a need to take a dynamic view in what will be a fast-changing market. This point could best be captured by the addition of an aim phrased in the following terms:  
*“to encourage providers of new voice services to make best endeavours to achieve PATS-like standards and to move progressively towards PATS-like standards”.*

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

It would be attractive as a policy option to draw distinctions between services that ‘look like’ traditional services and those that do not and between ‘second line’ services and ‘primary’ services; however, we suspect that both these distinctions would involve subjective judgements that would be unenforceable in regulatory terms. Equally it would be helpful if a threshold could be set at which voice services should be required to offer the same features as traditional services, but it is difficult to imagine what threshold measurement could be used that would be understandable, enforceable and not a bar to innovation.

In all the circumstances, we believe that access to 999 should be the key regulatory issue and that this should be addressed by a variety of devices:

- encouragement to provide the most reliable access currently possible
- encouragement to improve such access as soon as possible
- information at the point of sale
- information at the point of use
- information at the time of use

We expand on these points later in our submission.

**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?**

Essentially, yes. The exception to this is access to 999 services which we believe should be at the same level of reliability as for traditional voice services. While this approach might present some problems for consumers, the benefits for consumers are more choice of provider and service and more likelihood of innovations and improvements. However, the problems will need to be addressed in ways that we describe later in this submission.

**Question 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?**

Yes. Such a distinction would be very hard to define and enforce and, could one be determined, it would probably be rendered invalid by technological and market developments. Also it could stifle consumer choice and market innovation. However, again we make the point that this underlines the need for appropriate consumer protection measures.

**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?**

Yes. Again such a distinction would be very hard to enforce. Again it could stifle consumer choice and market innovation. However, yet again we make the point that this underlines the need for appropriate consumer protection measures.

**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?**

The enforcement of any threshold – such as the number of subscribers or the level of revenues, as suggested by the consultation document – would rely on the cooperation of providers of new voice services who would have no incentive to comply and would see such a threshold as a penalty for success. Therefore we do not believe this approach would be practical.

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

A colleague of ours attended the Ofcom meeting on Voice over IP held at Riverside House on 25 February 2004. From this meeting and other contacts, we believe that most providers would, for commercial reasons, wish to provide some sort of 999 service. Some have even indicated that it could be quite a reliable service. Indeed some have suggested that VoIP services could meet the PATS level of reliability.

**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?**

In our view, this cannot be assumed. Initially it will probably be the case that the VoIP service will be regarded as a second line service and that the first line will be retained (if for no other reason) for a totally reliable 999 service. However, as familiarity with and confidence in new voice services develop (and perhaps as the reliability of 999 access on such a service improves), consumers may well feel that it is a waste of money to retain the original line simply for the possibility – regarded as remote – that a 999 call will need to be made and therefore abandon the original line and depend totally on the new service.

If this analysis proves correct, it means that Ofcom cannot make 999 access on new voice services an option but must insist that it is a requirement (even if the provider cannot initially guarantee the same level of reliability as a PSTN line).

**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 believe that *all* voice services should be required to provide access to 999 and that such access that is as reliable as that from current PATS providers.

The consultation document states that Ofcom has requested information from providers on the cost of providing a 'high quality' 999 service but that costs were not available. In our view, Ofcom policy on this matter should not be settled until such costings are available and have been independently evaluated.

Whether Ofcom's initial view – that not all voice services should have a 999 requirement – or our view – that all should have such a requirement – prevails, it may be that not all new voice services will have the 'five nines' (99.999%) level of reliability that is currently available on the PSTN and therefore a programme of consumer information will be vital. We will return to the nature of such information later in this submission.

**Question 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?**

We believe that the availability of 999 access at current levels of reliability should be the first and dominant concern of the regulator. We are not convinced that requiring new voice providers to offer fully reliable 999 service would diminish the availability of such a service and therefore we do not accept that such providers should be allowed to provide a less reliable 999 service.

There are already VoIP services 'out there' that do not provide fully reliable 999 access and it may be that Ofcom will not accept our view that in future all new voice services should have fully reliable access. Therefore, clear consumer information will be vital, both to inform the user of the service and to act as an incentive to the provider of the service.

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

It is difficult to agree with Ofcom's assessment of costs when no cost figures are given in the consultation document. All we are told is that: "*.. the cost of complying with the PATS conditions are in most cases small*". If the cost is so small and the disincentive so low, it is not unreasonable or anti-competitive to expect all new voice services to comply with something at least approaching PATS conditions.

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

We are not sure that the Directives imply an all or nothing approach to the provision of a 999 service. It seems to us that such an interpretation depends on the meaning of "*reliable*" (para 4.68) and of "*all reasonably practical steps*" (Annex 5).

Current customer expectations – based on historical circumstances – can be expressed as a level of reliability of 99.999%. However, it is not self-evident that a degree of reliability of 99.9% or 99.99% would necessarily fall foul of the Directives. Clearly further legal advice and further discussion with the Commission are desirable.

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

We would want to await the “*further clarification*” which we are told is likely from the Commission later this year.

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

Ofcom’s proposed approach – in the words of the consultation document – “*relies on consumers to make informed choices*”. Two key issues in Ofcom’s strategic review of telecommunications are the need for consumers to have clear, accurate and trusted information in order to make decisions in the marketplace and the extent to which Ofcom itself should provide such information or at least ensure that it is provided by trusted third parties.

If Ofcom’s suggested approach on new voice services prevails, this will put a stronger need on Ofcom to ensure that the right information is available at the right time and in the right form in relation to new voice services and indeed more established services. Therefore the current consultation needs to be related closely to the strategic review.

**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.**

We are not convinced that enforcing PATS obligations on new voice services which offer access to 999 is an unreasonable position. Essentially it depends on the legal interpretation of the level of reliability required of a PATS provider and on a fair assessment of the costs of providing a fully reliable 999 service.

In this section of the consultation document, it is stated: “*Ofcom will also be looking at the way these services are marketed and sold to test whether adequate consumer information is being provided to continue to justify this forbearance*”. Clearly the effectiveness of any regime is important in determining its acceptability and therefore we would want much more information on the monitoring process in the Ofcom consultation on the appropriate framework for a consumer information policy.

**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 – consumers would not expect the same level of network integrity from nomadic services. But consumers need to be made aware of this difference. Promotional and contractual material should make clear this difference. Also consideration should be given to the provision of relevant information as the user logs on to the service from the remote location.

**Question 20: Do you think that it is better for Ofcom to:**

1. **Retain the 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; or**
3. **Withdraw the Essential Requirements Guidelines, and apply the ‘reasonably practical’ test set out in General Condition 3**

Option 3 could be burdensome for Ofcom and introduce a level of uncertainty and ambiguity for service providers. Therefore our inclination is to support Option 2.

**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?**

Yes – and such measures should be taken.

**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?**

The service provider should include appropriate network integrity requirements in its contract with the network provider. The responsibility is then clearly on the network provider.

**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 – but this needs to be made clear to consumers and users.

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

We do not believe that it would be appropriate for us to respond to this question at this time.

**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?**

We support Ofcom's view that providers of new voice services be strongly encouraged to develop the technology and processes that will enable them to support the wider provision of location information.

**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)?**

Earlier in the consultation document (paragraphs 4.31-4.32), Ofcom argued that it is not desirable to draw a distinction between services that look like traditional services and those that do not for the purposes of regulation, in large part because such a distinction would be hard to define or enforce and is unlikely to be future proof. The same argument could be made in relation to consumer information.

Even when a visible distinction between services is apparent, we cannot assume – especially in the early stages of this new market – that all consumers of all new services will be clear about what services are and what are not available on their new service.

Therefore we would propose that, at the point of purchase but not at the point of use, all providers of new voice services supply the customer with a clear and simple checklist of services which are provided and those that are not. So that this information is not selective

and so that comparisons can readily be made between different competing services, we suggest that the standard checklist is either drawn up by Ofcom itself or agreed with Ofcom by the appropriate organisation(s) representative of actual and potential providers.

**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?**

We agree that, if the service does not provide 999 access or provides such access at a level of reliability less than the PSTN, then – as well as information at the point of sale – there should be appropriate information at the point of use.

As indicated in the illustrative solution described in the consultation document, there should be two elements to this. First, there should be labelling of handsets in a form which is clearly visible (not underneath where it cannot be seen) and permanent (not a sticker which can be unpeeled or fall off). Second, there should be a clear and calm recorded message which is activated if the 999 call does not connect with the emergency services for any reason and this message should explain that the service in use cannot make the connection and recommend use of a normal land line or mobile phone.

**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?**

In paragraph 7.7 of the consultation document, it is explained that existing providers of new voice services have been encouraged to make the nature of their voice services clear to customers. It would be useful if Ofcom could check whether and, if so, how this request has been met. Meanwhile we have the further Ofcom statement in paragraph 7.26: “*.. there already appear to be some providers of new voice services who, in Ofcom’s opinion, could make significant improvements to the clarity of consumer information they provide to consumers, specifically in making it clear that their service does not offer access to 999*”.

In any event, we doubt the ability of a self-regulatory approach to work satisfactorily. This view is based partially on past experiences: in the early 1980s when telephone handsets were liberalised, the use of the green circle and red triangle (indicating whether it was safe to be attached to the PSTN) was most problematic; more recently, the Stewart Report recommendation that all mobile customers be given appropriate information on the safety of mobiles has been implemented in a very partial manner.

The other reason for our concern about self-regulation is the nature of the providers themselves. Many of the providers will be small and new to the telecoms market with little knowledge of regulation and very few resources. In these circumstances, we cannot be confident of a consistent high standard of compliance in a self-regulatory regime.

We are reluctant to support formal regulation. This would be contrary to the ‘light touch’ regulation approach that Parliament has so recently mandated to Ofcom. Also it could stifle initiative and innovation which would be to the consumers’ loss.

Consequently we favour a co-regulatory approach with full consultation with relevant stakeholder groups, including the Ofcom Consumer Panel, consumer organisations and trade unions.

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