

## Cover sheet for response to an Ofcom consultation

### BASIC DETAILS

**Consultation title:** New Voice Services

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

**Name of respondent:** Nancy Saunders

**Representing (self or organisation/s):** Kingston Communications (Hull) PLC

**Address (if not received by email):** Chalfont Grove, Narcot Lane, Gerrards Cross, Bucks, SL9 8TW

### 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

### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet. If I have sent my response by email, Ofcom can disregard any standard email text about not disclosing email contents and attachments.

Name Nancy Saunders

Signed (if hard copy) N/A

Justin Moore  
Competition and Regulation  
4<sup>th</sup> Floor  
Ofcom  
Riverside House  
2A Southwark Bridge Road  
London  
SE1 9HA

Chalfont Grove  
Narcot Lane  
Gerrards Cross  
Bucks  
SL9 8TW  
Telephone (01494) 878016  
Mobile (07779) 301718

14<sup>th</sup> November 2004

Your Ref:  
Our Ref: NJS/Sub/NVS

Dear Justin,

### **New Voice Services**

Kingston Communications (Hull) Plc (Kingston) welcomes the opportunity to respond to the consultation regarding New Voice Services (NVS). Kingston already provides NVS to Corporate Customers through our IP PBX and IP VPN products. Additionally our initial use of LLU in 2001 included Voice over Broadband (VoB) services as part of a bundled service package of a type that seems to be central to this debate.

We have based our comments in response to the consultation on the questions posed within the document.

### **Executive Summary**

Kingston is a strong supporter of service innovation and often takes a leading role in pioneering new products and services.

As noted above, Kingston has significant considerable experience of VoB, Voice over IP (VoIP) and NVS, as a result we believe that this gives us a degree of real world experience on which to draw in giving a considered response to this consultation.

Kingston notes that the bulk of Ofcom's policy considerations within this consultation have been dominated by a sub sector of suppliers and service propositions in this broad environment. These can be characterised as "Voice over the Public Internet" (VoPI). While Kingston recognises that this is an area that is likely to lead to increased mass market competition in the short term in the supply of voice services to End-Users, Kingston believes that the debate should be broadened to consider the wider issues of other innovative "New Voice Services" that will develop in the future.

Kingston is not currently active in the supply of VoPI services but is likely to be launching services based on such IP technology when our concerns regarding Quality of Service and other “fitness-for-purpose” issues have been addressed.

Kingston welcomes Ofcom’s Policy Interim guidance with respect to the supply of New Voice Services (NVS) but believe that it raises a number of concerns and uncertainties that require considerable further thought and investigation. These have been characterised below.

Overall, Kingston would prefer that Ofcom waited until such time as the European position regarding NVS has been fully determined through the Commission and is ready for implementation. There is a real possibility that by pre-empting the European position that the wrong signals are sent to the market and inappropriate market entry strategies are adopted.

### **1. Geographic numbering**

Kingston accepts that customers want access to Geographic Numbering and indeed believe that without their availability the uptake of NVS will be severely restricted. However the consequence of using such numbering for NVS will be dilution of the actual geographic significance of geographic numbering. By the very nature of NVS, London numbers will be able to be used in Bristol, Bristol Numbers used in Scotland etc. That, coupled with the likely widespread use of geographic number for nomadic services, will result in reducing consumer awareness and understanding of numbering conventions for voice services, no matter which access technology supports them. There are also significant practical issues regarding interconnection and routing of calls to be considered. The current preferred option for the routing of geographic traffic is for the far end hand over of calls; that is, handing over the traffic as close to the geographic location of the number range and End-User as possible. The impact of having calls delivered in practice to a location other than where the number range indicates will result in inefficient routing<sup>1</sup> and use of bandwidth and hence potentially higher transport costs, thus reducing the competitive edge of cheaper calls for this type of service. This will be exacerbated where the call has to transit one or more networks in order to reach the number range holders network as is likely with VoPI calls, and even further complicated if number portability has taken place.

### **2. Emergency Services**

Kingston is concerned that a failure to provide robust Access to Emergency Services may expose End-Users to an unforeseen risk. If an End-User’s sole method of electronic voice communication does not allow reliable access to Emergency Services and the End-User encounters an emergency situation, the consequences could be unfortunate.

Additionally, if location information is incorrect, or missing where access to Emergency Services is available, the responding Emergency Authority may waste

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<sup>1</sup> Number portability is a significant projected quality of service issue in the developing New Generation Networks, as it gives rise to extended call routings with the increased probability of packetisation delay related call quality impairment.

valuable time ascertaining where the emergency they need to attend actually is with similar consequences. Kingston does not believe that every user of this type of service will necessarily have an alternative means of contacting the Emergency Services. Clearly it is vital that consumers are adequately informed of the level of reliability for the access to Emergency Services when exercising their choice of voice services. Further, an “in life” indication needs to be given to users other than the purchaser who may be unfamiliar with any limitations with respect to access to the Emergency Operator.

Kingston also questions whether Ofcom have considered whether the Emergency Services call handlers and Emergency Authorities are comfortable with variable levels of access to Emergency Services, particularly if exacerbated by the absence of accurate location information. Kingston believes that there may be a possibility of Emergency Authorities and/or the call handling agencies choosing not to accept calls from particular Service Providers if this was the case.

### **3. Network Integrity.**

Kingston accepts that the issue of Network Integrity needs review, but believes it is wrong to say that current guidelines are not technology neutral. Kingston is confident that IP networks **can** be engineered to meet the required criteria. Clearly, what is **not** possible is equivalent compliance when the Public Internet is used for the access or backbone level supporting any NVS. Furthermore, given the existing commercial arrangements and known security vulnerabilities it is conceivable that the QoS that is provided by NVS delivered over the Public Internet may be significantly and indeed unacceptably lower than traditional Voice services. (This may be due to transient network traffic overloads, particularly in contended access networks or as a result of Denial of Service (DoS) attacks whether targeted at an NVS provider or otherwise.)

Some of these shortcomings may be capable of being addressed through network investment and appropriate security safeguards. However particularly at the access level, there seems little economic or commercial incentive for this to be done since it is likely that there may be no direct commercial relationship between VoPI SPs and Internet Access SPs and/or the infrastructure owner. Conversely Internet Access SPs may take steps to reduce the Quality of Service even more by increasing contention, or blocking IP ranges of VoPI SPs in order to curb the “free riding” on their access infrastructure without appropriate economic incentive.

An additional, but crucial aspect of network integrity is the so-called “critical national infrastructure”. Government is seeking though Industry agreement and new legislation to ensure that critical services are available in times of national crisis. This includes the proposed “Enhanced” Government Telephone Preference Scheme (GTPS). This is not fundamentally threatened by NVS but the widespread use of VoPI will significantly weaken or dilute the integrity of the service that Government would get. The current Cabinet Office position on GTPS clearly does not recognise the possibility that a significant number of customers that may be required to be part of the preference scheme could end up connected to networks where it is impossible to allocate such preference or indeed guarantee the call can be successfully transported from the point of origination to the point of termination.

## **5 Interconnection Obligations**

Kingston urges Ofcom to clarify what interconnection and access obligations NVS SPs, particularly VoPI SPs will have. In particular will General Condition 1 (General Access and Interconnection Obligations) apply in part, in full or not at all, and in what circumstances?

For example, if a VoPI SP were to request “interconnection” with a PATS network Provider, and the VoPI SP had no PATS equipment and relied on peering agreements for the transport of his services would there be an obligation to negotiate with a view to concluding an agreement?

The remainder of this response addresses the questions specifically asked in the consultation.

### ***Question 1: What types of new voice services do you envisage becoming available in the future and what characteristics will they have that distinguishes them from traditional voice services?***

There are many types of NVS that could be made available, indeed it is unlikely that all possible types of services been identified. However Kingston believes that the main service attributes distinguishing NVS from traditional voice services are:

- Variable levels of Quality of Service (Dependent on access and backbone infrastructure used to transport the “call”.)
- Variable levels of Access to Emergency Services (ranging from none to guaranteed)
- Widespread use of Geographic numbers to locations not traditionally associated with the number range.
- Nomadic Services and/or fully mobile services not dependant on existing 2/3G infrastructure

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

With regard to consumer protection, Kingston believes that the main challenge will be how to ensure that what each available service offers in terms of service attributes, access to Emergency Services, QoS etc is clearly understood. How is this information to be promulgated and how can we ensure that consumers have adequate information available in order to make an informed decision on which service best matches their particular requirements?

Ofcom recently consulted on the mandatory publication of comparative service quality information, which had this very policy objective. Kingston therefore recommends that NVS providers should publish equivalent quality parameters to those required to be published by traditional voice SPs to ensure real technology neutrality.

A New Voice Service is just that- a voice service, and Ofcom should be careful to avoid creating a two-tier regulatory regime by condoning discrimination favouring one access technology over another.

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

Kingston understands and accepts the initial top-level aims identified. However Kingston has a number of concerns regarding their implementation, relating, in the main, on how to encourage innovation without reducing consumer confidence in voice services.

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

Kingston believes that there are a number of interconnection, and commercial issues that will need to be considered, as identified in the executive summary. These issues do not impact or involve the consumer directly but will ultimately have a significant indirect effect on all consumers who choose to take VoPI services. Unless these issues are addressed effectively consumers could be faced with unacceptable levels of service, the withdrawal of services due to unresolved commercial issues, and possibly access to their NVS being denied or curtailed by their Infrastructure provider.

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

Kingston has commented in the “Executive Summary” on a number of additional issues we believe to be critical in policy terms.

***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?***

Kingston agrees with Ofcom’s initial view in as much as it is not necessary for all voice services to provide the same standard features as traditional telephone services. However by reducing the regulatory obligations that certain NVS services are bound by, it does pose the question as to whether the policy aim of enabling consumers to make informed decisions can be practically be delivered. We strongly support the development of an effective, co-regulatory consumer Code of Practice (CoP) for VoPI SPs and other NVS providers that is backed by effective regulatory sanctions.

***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.

***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?***

Kingston questions whether "Line" is the correct terminology that should be used in this instance, as "Line" is traditionally associated with physical access infrastructure. However, Kingston does believe that there should be no distinction between the regulation of primary and secondary voice 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?***

This question is extremely difficult to answer without knowing how Ofcom would enforce the adherence to meeting any threshold set.

As NVS are already available, how would Ofcom ensure that services being used meet any threshold and what would Ofcom do if they found they didn't?

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

Kingston recognises the benefits in providing access to the Emergency Services and that consumers will require a means to call them. However, the definition within the Universal Service Directive means that any service that does offer access to Emergency services could be defined as being a PATS service and if that is the case, the obligations in regard to a PATS service as set out in that Directive should also apply.

Kingston is aware that that some providers of VoPI do not want to offer even a basic form of access to Emergency Services, as this would clearly exclude the service from being classed as "PATS" and consequently from all the obligations that a PATS requires. This clearly demonstrates a clear incentive not to offer access to Emergency Services as regulatory compliance has a high associated cost.

Therefore Kingston does not agree with Ofcom's view that that most providers would want to offer at least a basic form of access to 999.

***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?***

Kingston does not necessarily agree with this view. It could be argued that consumers currently get access to Emergency Services only as there is a requirement to provide it.

If this requirement is to change, or be diluted, then Kingston suggests that this is made clear to consumers in order for them to make alternative arrangements to access Emergency Services where and when necessary.

It may be useful to undertake primary independent consumer market research to ascertain actual consumer views in this area.

***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?***

Kingston agrees with the policy principle of Ofcom's view in relation to adequately informing potential subscribers to limitations to access to Emergency Services. However Kingston does question how would it be possible to make the End-User adequately aware that access to Emergency Services is not available from a particular device at a particular time especially if that customer were in the middle of an Emergency Situation. This is particularly relevant for VoPI services due to the network integrity issues referred to earlier.

***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?***

As we mentioned before, Kingston questions whether Ofcom have considered whether the Emergency Services call handlers and Emergency Authorities are comfortable with variable levels of access to Emergency Services, particularly if exacerbated by the absence of location information. Kingston believes that there may be a possibility of Emergency Authorities and/or the call handling agencies choosing not to accept calls from particular Service Providers if this was the case.

Additionally, if an emergency situation occurs when a voice service is experiencing "network problems" the Emergency situation will not just go away or wait until the "problems" have been resolved. Wasting time finding out that your VoPI can't connect you to the Emergency Service required could mean the difference between life and death.

In practical terms, the EC and national public policy objectives of requiring the traditional POTS providers to provide location information to Emergency calls has increasingly been done electronically. The Emergency Service organisations are thus similarly increasingly reliant on such information, and a significant increase in the number of calls without such information will be a roll back on the operational gains as a result of the implementation of EISEC and mobile location information.

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

It is difficult to comment on this issue since the consumer of VoPI and other NVS will clearly affect operators' views on the value and economic cost base of "POTS" provision.

Kingston questions whether the overall level of service will be reduced should there be a relaxation of the obligations in regard to PATS, or lack of PATS obligation enforcement. Specifically, should there be widespread take-up of NVS then the cost of providing POTS USO can be expected to increase. Higher spending customers moving to cheaper, non-USO funding NVS, would leave the USO POTS providers with potentially low spending and vulnerable customers, being provided services from a proportionately increased cost base. Without some form of USO funding, this can only result in higher costs to vulnerable end users. This seems a perverse result.

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

Kingston would prefer Ofcom waited until such time that the European position regarding NVS be determined and is ready for implementation. There is the possibility that by pre-empting the European position that the wrong signals are sent to the market and inappropriate market entry strategies are adopted.

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

Kingston is concerned that by adopting this alternative approach Ofcom is exposing itself to potential legal challenge. As has been mentioned previously, Ofcom could be seen to be pre-empting the outcome of the European consultation on this matter, and even breaching their statutory duty by relaxing PATS obligations. The legitimate expectation is that every person who is subject to the same obligations should be treated in the same way, so Ofcom forbearing in respect to NVS PATS obligations but not for POTS PATS could be seen as discriminating in favour of a particular technology, or suppliers.

In addition, whilst within the European USO Directive, the fundamental purpose of article 26 is clear, what is unclear is whether or not access to Emergency services should be for 100% of the time. It is arguable that the provision of access to Emergency Services must be a provision of **effective** access to Emergency Services. Therefore if access is neither effective nor reliable then it should not be classed as PATS. However, Mobile voice providers do not actually have to provide 100% guaranteed access to Emergency Services, so perhaps NVS PATS should have the same obligation as the Mobile providers.

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

As has already been mentioned, Kingston believes that the debate needs to be broadened to consider a number other issues which have not been specifically raised by Ofcom within the scope of this consultation.

These include:

- USO
- Interconnect
- Compliance, management and enforcement.
- Number Portability
- Any to any obligations
- Numbering
- GTPS

***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.***

Kingston is uncomfortable with this precedent of non-enforcement and believe it could have serious implications for the market, customer confidence in voice services and the telecoms industry as a whole.

***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?***

Kingston believes nomadic services fall outside the “fixed” classification so should be classed within the same definition as current “mobile” voice services and regulated accordingly.

***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***

Kingston believe that this should be referred to the NICC, but that our initial view is that option 2 would give much greater certainty and eliminate the need for extensive regulatory oversight of operator implementations.

***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, but there are technology and commercial reasons why this may not be practicable in all cases.

***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?***

Only the network provider can guarantee any real degree of network integrity, and then only for the services that they directly supply. The network provider can only have limited control over the services offered over their network if they do not supply them, and should therefore have no responsibility for those services whatsoever, unless they are commercially incentivised to do so.

***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?***

Not necessarily, although it may be seen to be reasonable on a historic basis if current legacy PSTN and ISDN platforms are assumed. On a forward-looking basis with migration to “NGN” platforms imminent, this approach would clearly be discriminatory.

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

It is technically feasible, and several solutions are currently being developed. Such implementations will however only take place if there is a commercial service benefit to the end user or a mandated requirement.

***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?***

It is Kingston’s experience that Emergency Services expect location information to be available for both fixed and mobile services. Kingston believes that this principle should be adhered to where technically feasible and NVS should not enjoy a privileged position in the longer term.

***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)?***

Kingston believes that adequate consumer information is vital to protect the industry and the consumer in all circumstance. The form this information should take to ensure that Consumers are adequately informed and protected may however vary. Kingston fully

supports a development of an effective, co-regulatory consumer CoP for VoPI SPs and other NVS providers that is backed by effective regulatory sanctions.

Kingston urges Ofcom to monitor the adequacy of the promulgation of consumer information regarding NVS and to ensure that consumers are adequately informed. Ofcom should also take steps to monitor and collate evidence of any detriment to either consumers or the Industry as a result of inadequate information being available as a basis to consider if a more interventionist regime is needed

***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?***

Kingston are concerned that consumers do not always read the information given to them, particularly if issues are buried in small print. Kingston believes that there should be one clear approach to ensure products are not mis-sold and the consumer is given information before and at point of sale in a clear and precise way.

Kingston is keen to work with the industry to ensure a Code of Practice is produced to help with this area however a clear compliance and enforcement programme by Ofcom to support regulation of NVS is necessary to ensure no detriment to either the Industry or Consumers.

As has been mentioned earlier, Ofcom recently consulted on the mandatory publication quality parameters information, which had the main policy objective of ensuring consumers were adequately equipped with QoS information in order to aid them make an informed decision when choosing the service most appropriate to their needs. Kingston therefore recommends that NVS providers should publish equivalent quality parameters to those required to be published by traditional voice SPs to ensure technology neutrality.

***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?***

Kingston recommends a co-regulatory approach involving all stakeholders including consumers.

Should you have any questions relating to this submission, please do not hesitate to contact me.

**Nancy Saunders**  
**Regulatory and Interconnect Manager**