

Telefónica comments on ERG Consultation “DRAFT Common Position on VoIP”

Telefónica welcomes the opportunity given by ERG to comment on its “DRAFT Common Position on VoIP” and acknowledges the increasing relevance of this kind of services as they might progressively emerge as potential substitutes of the traditional telephony service over the PSTN.

However, a longer timeframe to respond would have been more desirable in order to allow for a more in-depth analysis and additional detailed comments that would complement those raised below.

General comments on VoIP regulatory issues

Harmonisation in the area of VoIP regulatory issues might be adequate to favour take-up of these services. Today, there are already some national regulatory initiatives (and different national market conditions) that may not follow a European common approach (such as application of PATS obligations to VoIP services)

To fulfill its objectives, this harmonization must avoid the possibility of obligations at national level that imply an additional burden. For example, the obligation of in-line power of terminals. (The Regulation of Universal Service in force in Spain foresees an obligation for continuity of fixed telephone service availability during at least four hours in case of interruption of power supply). This obligation, not included in European framework, is not foreseen in the case of VoIP, for reasons associated with the technical nature of the network. Therefore, Telefónica is concerned if in the ERG common position, there is an emphasis on a blanket extension of the rights of PATS users to VoIP. It should be taken into account that there are PATS facilities that can not be put in practice for VoIP because of technical impossibility of the networks that support this last service.

As a general comment, any harmonisation measure in the context of regulation should take into consideration that VoIP services are still, in most cases, in an early stage of development and acceptance by the customers and, therefore, regulation should not become an artificial obstacle for its progressive take-up. In particular, there might be some specific VoIP services like those based on an additional (second) voice line (VoB) to customers that, considering that are currently offered as a complement rather than a substitute to PATS, should not be subject to the same regulatory obligations as the latter.

Specific comments on the issues covered by the ERG consultation document

Definitions

Regarding the classification/categories of VoIP services (gradation from service category 1 to 4), Telefónica basically thinks that the categories should reflect the differences in the provision of VoIP services with regards their degree of substitution for the traditional telephone service – PSTN¹.

The impact of VoIP on current definitions covered by the e-comm framework Directives is a complex issue. Telefónica is of the opinion that the changing technological scope in the telecommunications sector – particularly with the emerging services based on all-IP network architectures- will imply the re-definition of many concepts traditionally thought to be applied in the traditional circuit-switched world. However, Telefónica considers that this constitutes a much broader debate to be handled within the review process of the current Framework. In the short timeframe for this consultation, it is very difficult to provide a sound opinion, given all the possible implications to study.

Emergency services

Regarding access to emergency services, Telefónica agrees that VoIP services providers which allow access to the PSTN should make all their efforts to give access to the emergency services, and as long as technology allows it, and give the most accurate information about the caller location (as stated in the ERG document, industry is already dedicating resources to solve this issue in a context of nomadic use).

However, in some specific cases the obligation is not necessary (i.e in an additional voice line (second line based on IP), the access to the emergency service might already be guaranteed by the PATS).

In the same way, where VoIP services are combined with public mobile GSM-/UMTS-telephony services, it is not necessary to oblige emergency call obligations on both, the VoIP and the mobile GSM-/UMTS-telephony services because this will only lead to more cost without adding value.

As for the most appropriate routing of emergency calls, the most viable option for the moment seems to be in all cases (existence of nomadism or not), routing to the emergency center that corresponds to the usual address of the user, as embodied in the contract with the VoIP provider and included in the databases used by the entities responsible of PSAPs. This should be a more logical choice than the first option cited of

¹ Telefónica understands that Service category 1 is more likely to be considered a software product than an ECS, and therefore sees no application of the current e-communications regulatory framework to them. ERG seems to acknowledge this fact as stated in the first paragraph of page 20 “*But these systems, classified as “Service 1” in the introduction of this document, are not subject to the requirements, as they are usually not ECS*”.

the document (routing to the emergency center next to the home VoIP service provider) that is an ambiguous option in order to be implemented.

Numbering

Telefónica agrees with the clear relevance of nomadism as a feature of IP-based services (including voice).

However, at the current stage of development, the nature of numbering ranges should be preserved. It is important that the geographical meaning of geographical numbers is preserved and therefore where E.164 numbers are used, the allocation of those numbers are carried out with respect to the geographical meaning in the national numbering plan.

Number portability

Telefónica supports portability for VoIP services, i.e. to allow conservation of numbers in case of change of operator or VoIP service provider.

In general we support the position of the ERG regarding the fact that number portability obligations should be imposed on VoIP providers in the same way as they are imposed on traditional public telephone providers who meet the criteria of use of the numbering range (subject to the preservation of the meaning of the numbering ranges indicated above).

Lawful interception

Telefónica generally agrees with considerations in the common position about introducing obligations for VoIP in a similar manner to STDP. In any case, this will require a different technical treatment from that of the traditional networks, as it is necessary to take into account the architecture of IP networks and the specificity of nomadism with all the associated technical requirements.

Cross border issues

In the area of cross border issues, Telefónica believes that it should be pursued the finding of a consensus solution in the international fora to deal with them (WTO). This is particularly important in the field of electronic communications whereas the proliferation of nomadic all-IP services that might be provided by any agent anywhere might present new challenges to be addressed.

Wholesale services

With regards the “regulatory treatment of wholesale services which impact on VoIP diffusion” and although the consultation document does not cover it in depth, Telefónica considers that in such an early stage of development of IP services the priority should be focused on the commercial agreements / negotiations carried by the industry itself rather than on any regulatory intervention that may hamper the take-up of these innovative services. Indeed, the market players are already working on these issues within the evolution to an all-IP environment. As one of the main objectives of the framework is to only intervene when it is proved necessary, no early one-size-fits-all regulatory solution should be sought in this field and the market itself will be best placed to find a successful solution that will satisfy users’ communications requirements.

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