



Internet Telephony Services Providers' Association

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Elizabeth Flood
Trade and Industry Committee
Committee Office
House of Commons
7 Millbank
London, SW1P 3JA

Dear Ms. Flood,

1. ITSPA is delighted to have the opportunity to contribute its response to the Trade and Industry Committee's (TISC) inquiry into Ofcom's Strategic Review of Telecommunications. Our response aims to highlight our key priorities with regards to the review of the sector.
2. ITSPA – The Internet Telephony Services Providers' Association – was established in 2004 to represent the voice of the burgeoning VoIP sector in the UK. ITSPA not only aims to encourage the innovation and development of the VoIP industry through the promotion of self-regulation and competition, but also to promote the benefits of the technology to consumers. ITSPA has the objective of ensuring consumers receive a first-class service and to reassure them that any product or service bought from a company displaying the ITSPA logo comes with a high standard of consumer protection, which is properly policed and includes a dispute resolution procedure. Further information on ITSPA and its members, can be found on our website here: <http://www.itspa.org.uk>.
3. VoIP is set to revolutionise the communications landscape in the UK, and it is crucial that an open and competitive telecommunications is fostered to ensure the innovative VoIP market is allowed to grow. VoIP will not only bring significant cost savings to the consumer, but a wide array of value-added functionalities, such as multi-media, "presence" functions (as with Instant Messaging Services), roaming abilities, fixed/mobile convergence, and personalized inbound services.
4. ITSPA would like to stress that in order for this dynamic industry to thrive, equality of access coupled with fundamental changes to BT's organisational and cultural behaviour are crucial to discontinuing the status quo, whereby BT Retail has a distinct advantage over its competitors, and to ensuring and attaining a fully functioning, competitive telecoms market. The VoIP market is still in a nascent phase of development: ITSPA is concerned that, without equality of access, the rollout of new voice services may be severely hampered to the detriment of the consumer.
5. Thus, overall, ITSPA agrees with Ofcom's aims to promote competition at the deepest levels of infrastructure, as far as this is sustainable and effective, and to focus on equality of access where this is not possible.



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6. ITSPA is concerned, however, that Ofcom's aims to withdraw from regulation as soon as possible may be based too much on BT's words rather than its actions. Although ITSPA believes self-regulation and minimum intervention from Ofcom are the best means of fostering competition and innovation in markets in an embryonic phase (such as the VoIP market), ITSPA urges caution when deregulating in areas where it has been proved that regulation is necessary, or where there are enduring economic bottlenecks, based on the promises of BT to deliver the building blocks for effective competition (i.e. equivalent access products) or to refrain from resuming anti-competitive practices.
7. The realisation of BT's promises depends very much on its long-term commitment to bringing about necessary and considerable organisational and cultural changes. Ofcom needs to ensure that adequate review mechanisms are in place to assess the level and quality of BT's actions to comply with its verbal assurances that it will deliver equality of access. Clear timescales and deliverables, for example, are necessary to ensure BT's action plan is carried out – otherwise, there is the risk that competition will not be improved, the delivery and take-up of innovative and good-value services for consumers seriously hampered, and the UK will continue to lag behind other EU countries, notably France, in the take-up of new voice services.
8. Hence, although ITSPA agrees that regulation should concentrate on delivering real equality of access, any future removal of regulation should only take effect where there is visible and measurable evidence of well-established, long-term equality. Industry as a whole should be consulted to ensure BT is fully facilitating equality of access to products, processes and prices in practice. One possible measure of the achievement of equality of access is whether BT Retail is willing to use BT's wholesale product for delivery of its own services.
9. ITSPA concurs with Ofcom's dual test: that there should be genuine equivalence and effective competition before a relaxation of regulation is considered. Should BT renege on its promises, and, for example, BT Retail continue to receive favourable treatment from BT Wholesale, the Enterprise Act may need to be brought into play as a last resort.
10. ITSPA must stress that BT should not be permitted to leverage its dominance from the traditional telephony world to the IP world. The Internet forms the basis for a communications revolution, providing a greater variety of services at more competitive prices than on traditional networks. The promise of this revolution has already been significantly realised for services over the World Wide Web and to a lesser extent for broadband access services: both are areas in which incumbent operators like BT did not have an established dominant position. The same can happen for new voice services, if BT is not able to leverage its dominance for traditional voice services into a dominant position for new voice services. The critical ingredient to making this happen is the availability of broadband "pipes" that do not favour the new voice services of BT over those of other providers. At present, the requirement that consumers pay BT's line rental in order to have access to DSL broadband produces just such favouritism.
11. The solution – which is already readily available as a technical matter – is for Ofcom to require BT to offer "naked DSL" at competitive prices i.e. allowing customers to purchase a high-speed Internet service without paying line rental. By this single action, Ofcom could substantially promote the development and benefits of competitive new voice services.
12. **"Naked-DSL" and LLU**
 - 12.1. ITSPA is convinced that the provision of new regulated products such as "naked DSL" is crucial to achieving real equality of access and ensuring that BT's new voice services are not favoured over those of other providers.



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- 12.2. "Naked-DSL" refers to standalone DSL (i.e. a high-speed broadband service without the underlying voice capability and related costs). The provision of Naked-DSL would mean that consumers would no longer need to pay line rental to a telecoms company in order to obtain a broadband service.
 - 12.3. Ofcom said in its consultation document that it may consider the mandating of Naked-DSL. ITSPA is convinced such a requirement would substantially promote the development and benefits of competitive new voice services, as consumers are less likely to consider switching providers of communications services if they still have to pay line-rental to the incumbent operator (and receive any bundled services), thus limiting market entry for new voice service providers.
 - 12.4. ITSPA believes Naked-DSL will help ensure new voice services flourish in the UK and bring increased competition and greater functionality to the telecommunications marketplace.
 - 12.5. ITSPA would also like to stress that, in addition to the provision of naked-DSL, efficient and cost-effective LLU must be further facilitated. LLU will only sufficiently develop and become viable when the incumbent provider is compelled to provide access at a realistic, "cost based" price.
 - 12.6. LLU is essential to allow VoIP providers to offer integral packages of services (i.e. line rental, internet access and voice calls) with a high-quality of service. These services are in high-demand from consumers, and unless VoIP providers are able to offer them, consumers will be less willing to switch to and adopt new voice services. Countries in the Far East, such as Japan, and even in some countries in Europe, e.g. France, have much higher residential VoIP penetration because LLU is far more advanced, and competition increasingly effective. The LLU case studies of Japan and France thus provide the evidence of effective LLU being a prerequisite for the provisioning of competitive VoIP services.
 - 12.7. Naked-DSL and LLU are both crucial to the development of a competitive new voice services market that offers a varied palette of value-added services for the consumer.
13. **Towards equivalent access**
- 12.1. Equal access to information: ITSPA believes that not only should there be full equivalence of inputs (i.e. BT wholesale customers should be able to use exactly the same set of regulated wholesale products, at the same prices and using the same systems and transactional processes, as BT's own retail activities) wherever possible to level BT's technical, product, price and processing advantage, but there must be equivalence on an "access to information level". BT Retail's clearly privileged position with regards to access to data at the disposal of BT Wholesale must be re-balanced to enable a level playing field. For instance, BT has the unique advantage of being able to cross-use its databases. In the past, BT Retail has used BT Wholesale's databases in order to ascertain which of its customers were using "carrier pre-selection" in order to contact these consumers regarding their decision to switch providers. Privileged access to this data is estimated to have resulted in new entrants losing over a hundred thousand customers in the space of 2 years before the practice was identified and stopped. There must be strict transparency obligations placed on BT to ensure that any such cross-utilisation of information across the different BT divisions can be identified from the outset. Moreover, sufficient sanctions should be in place to discourage BT from such actions – which also have serious data protection as well as competition implications – in future.



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- 12.2. Technology Neutrality: ITSPA strongly believes, in line with the objectives of technology neutrality, that any BT VoIP service would automatically and necessarily be subject to SMP (significant market power) obligations, as BT has SMP in the call origination and call termination markets. ITSPA believes this would also result in a more consistent and transparent regulatory approach, which would provide for legal and investment security for VoIP providers. BT should not be permitted to leverage its dominance in the traditional telecoms world to new voice services as this could be seriously detrimental to the rollout of new and innovative services.
 - 12.3. Next Generation Networks: The rollout of NGNs, such as BT's "21CN", offers a unique opportunity to ensure that there is effective competition from the outset bringing benefits to industry and the consumer alike. It is essential that equal access be facilitated from the beginning to enable market entry by alternative providers and to ensure BT's monopolistic tendencies do not transfer to the new environment. ITSPA is committed to working together with all stakeholders in this migration process.
14. **Behavioural changes required from BT to achieve real equality of access**
- 14.1. ITSPA believes the current division of tasks within BT almost automatically leads to anti-competitive behaviour towards its non-BT Retail customers.
 - 14.2. Thus, as a general point in our response to Ofcom's consultation, we explained that we would advocate 3 business units within BT (rather than the current two): Access (or "Loopco"), Wholesale and Retail. In the Access/Loopco business would be all the bottleneck products and services, including engineers, LLU, Wholesale Line Rental (WLR), bitstream access, phone directories etc. ITSPA believes this division of roles would help spur necessary behavioural changes within BT: it is not only important to ensure a clear *division* of tasks within BT; but also that there is a careful and appropriate *allocation* of tasks. For instance, BT engineers should be based out of BT "Access" rather than BT Retail, which is the current practice.
 - 14.3. BT employees must be given the incentive to treat all BT customers as being equally important to BT's business. Review and complaints mechanisms must be in place to ensure BT engineers deliver an equally high level of service and quick response time to non-BT Retail clients.
 - 14.4. There must also be more transparency in the information flows between BT divisions (Wholesale, Retail and Access). Important information regarding product changes, technical information and price changes should be announced simultaneously to BT Retail and its competitors. Lessons should be learnt from the investment banking world where there are strictly enforced "Chinese wall rules" to prevent sharing of information between the research function and the banking function to prevent conflict of interest and to preserve the integrity of both branches. Such good practice helps foster trust within the wider community. Robust "Chinese Walls" would also help prevent market sensitive information that BT Wholesale or Access may be in possession of from filtering down to BT Retail. Ofcom must also be vigilant with regards how these Chinese Walls will be maintained and policed: not only is transparency required, but active review and regular checks should also be carried out to ensure that BT is providing equitable treatment to all market players. Sanctions should be applied should this not be the case.
 - 14.5. ITSPA recognizes that profound organizational changes will take time to develop in order to achieve equality of access. However, ITSPA believes that strict timetables and



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deliverables must be mapped out to ensure BT does indeed carry-out visible and quantifiable changes. These changes will significantly improve the services all telecommunications providers can offer UK consumers.

15. Consumer rights and information

- 15.1. ITSPA members are committed to ensuring consumers are provided with a wide range of innovative services at competitive prices and that they are fully protected from rogue traders and empowered to select the best service to meet their cost and functionality needs. ITSPA's main priority at present is to develop a comprehensive Code of Practice (which covers, amongst other things, sales and marketing rules, availability of emergency services, spam and data protection, and complaints procedures) to which all ITSPA members must adhere; members who fail to comply with the code of practice will face appropriate sanctions. The ITSPA logo will thus be synonymous with industry best practice and be a clear marker for residential and business consumers alike of a reliable service provider. ITSPA believes its enforceable code of practice – accompanied by a concise “clear English” version of the document to help consumer comprehension – will further consumers' abilities and confidence in selecting the most appropriate and valuable VoIP provider.
- 15.2. ITSPA does not believe Ofcom should restrict the range of tariff packages and structures in the market, as this will stifle innovation and ultimately limit consumer choice. Instead, VoIP providers, who are closer to the market, should be free to design appropriate tariff packages and structures. After all, ITSPA's members are committed to continuing to provide clear and comprehensive information to consumers regarding their services and prices. On the other hand, Ofcom's suggestion of providing comparable pricing information for consumers is welcome.
- 15.3. ITSPA also urges Ofcom to further inform and encourage consumers to consider alternative service providers – or to choose another service provider for certain services – for cost, customer service and functionality reasons. Many consumers may not be aware of the ease with which this switching can be achieved and the benefits that can be had. By informing consumers on how to switch provider and encouraging them to do so, as well as maintaining the commitment to remove barriers to switching (e.g. ensuring there is no excessive charging for switching processes and to promote simplified switching procedures), consumers will be more likely to consider switching, which will ultimately facilitate market entry for new providers, due to a wider pool of consumers in search of a more competitive service.

16. Should you require any further information, please do not hesitate to contact the ITSPA secretariat:

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