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Dear Mr Neylan,

Re: Regulatory Issues Associated with Provision of Voice Services Using Internet Protocol in Australia Discussion Paper

Thank you for providing the opportunity to comment on the future regulation of VOIP services. Please accept our apologies for the delay in submitting our input. CTN offers the following information to the ACA based on issues we feel are most important from a consumer perspective.

About Consumers' Telecommunications Network (CTN)

The Consumers' Telecommunications Network (CTN) is a national coalition of consumer and community organisations as well as individuals that represent community interests in the national policy arena on telecommunications issues. CTN advocates for better access, quality of service and affordability of telecommunications services for residential consumers.

CTN's members are national and state organisations representing consumers from non-English speaking backgrounds, deaf consumers, indigenous people, low income consumers, people with disabilities, young people including children, pensioners and superannuants, rural and remote consumers, women and consumers in general.



Introduction

CTN appreciates the wide-ranging issues traversed in the Discussion Paper, and congratulate the ACA for identifying many important issues. CTN is viewing the impending VOIP revolution with caution. Whilst we see many benefits and opportunities, we consider it has the potential to detrimentally affect consumers rather than enhance their telecommunications experience. The cautionary tone of our comments are a reflection of the uncertain muddy regulatory ground on which we find ourselves. We hope to assert strongly that a high ground for basic consumer grounds must be sought quickly and effectively, if VOIP is to live up to consumer expectations.

Opportunities

Consumers recognise that VOIP technology will offer them great opportunities and benefits now and in the future. We envisage VOIP products available over the public internet will offer services of quality and innovation far superior to what is currently available. One practical example relates to directory assistance services, which we expect will be enhanced without the need to increase the price for end users. The availability of flat rate directory assistance would address the concerns we have voiced about premium rate services recently. CTN is opposed to premium rates being charged for directory services, and believe cheaper VOIP services have the potential deliver much better quality service in the future.

Another exciting VOIP application we hope to see rolled out on a large scale is video over IP. The advances in medical treatment with the use of telemedicine that should result are broadly known, and we expect that such technology will also impact on telecommunications. Consumers could have better control of functions for phone books, caller ID, call waiting etc, using more intelligent customer equipment. Whilst the opportunities seem exciting and the potential boundless, it is imperative that in the excitement we do not lose the basic services and consumer safeguards that Australian consumers rely on daily. VOIP services must build upon and *enhance* telephony communications, rather than simply offer an alternative (and potentially inferior) telephone service at a price that undermines full quality basic services.

Consumer Awareness

CTN is concerned that consumer understanding and awareness of VOIP services remains under developed because of an industry reliance on hype over substance. VOIP applications remain largely unknown to most consumers, even

in urban areas where such products are already available in the marketplace. Active efforts must be made for industry to explain the pros- and cons- of VOIP services to the community before products are rolled out further. The term "VOIP" needs to be deconstructed and clearly defined so consumers can readily comprehend the terminology and subsequently minimise confusion. Industry cannot seriously expect consumers to embrace new technologies on a wide scale when the most basic knowledge about the service is not adequately conveyed. We are aware that the Australian Communications Industry Forum (ACIF) is beginning to take note of these community concerns and commence work in the self-regulatory environment.

Responsibility for consumer education of VOIP needs to belong, by and large, with a particular entity. Reliance on vague- and misleading- assertions of "free" telephone calls does not in the long term encourage consumers to consider VOIP. There needs to be effective partnerships between community groups like CTN with industry and regulators to ensure a public awareness campaign is well resourced and effective.

Whilst a public education campaign will be useful, ultimately consumers need regulation of VOIP information provided at the point-of-sale of such products. Other telecommunications products are covered through the Australian Communications Industry Forum (ACIF) Code on Prices Terms and Conditions. It is CTN's view that the inadequacy of the consumer protection and disclosure components of the original Code resulted in the need for a review- which took a staggering 3 years to complete and left countless numbers of consumers without adequate protection in the interim. We do not believe VOIP users are adequately covered under that existing Code.

Consumers complain to CTN constantly that it is impossible to compare telecommunications products and services, and we want regulation that prevents the problem occurring, rather than the current approach of taping together gaping regulatory holes. A registered industry information provision Code (similar to the ISP Guideline) is needed, to ensure customers are fully informed at point of sale about the safety and usage limitations of VoIP products. CTN calls on the ACA to formally request such a Code be developed within ACIF. Whilst we agree with the industry preference to keep Codes as technologically neutral as possible, the fact VOIP services have the potential to offer bare-bones services in the future means it does require specific regulatory attention, which at the minimum is the development of an ACIF Code.

CTN considers that the telecommunications industry has long had a history of not fully and adequately disclosing the terms of purchase and use of products a consumer wishes to purchase. One of the most significant efforts to rectify this in recent times has been the development of a Code on Unfair Contracts within ACIF. We are concerned that new entrants to the telecommunications industry may not fully grasp their regulatory obligations and as a result we could go

backwards in consumer protection. One example might be readily available off the shelf VOIP products that do not explain the terms and conditions clearly on the packaging.

We are strongly of the belief that the industry, government, regulators and interest groups must work together to develop clear practices for the sale of VOIP products and the provision of information to consumers. This is the only way to build consumer confidence and take up of VOIP so that it may reach its true potential for end users and the industry.

STS and VOIP services

We note that in the discussion paper and at public forums where the industry has gathered to discuss VOIP there is no consensus about whether a VOIP service constitutes a standard telephone service (STS). Although the preliminary opinion appears to be that they are an STS, this conclusion isn't necessarily correct according to the Universal Service Obligation Provisions outlined in a consumer fact sheet on the ACA website: "Your rights under the USO do not extend to mobile services, the Internet, or other enhanced telecommunications services"¹. Without the right to an internet connection, we fail to see how consumers are meant to have their access rights protected in the same way fixed services are. CTN cannot say strongly enough that the regulators should address this matter as of the highest priority.

Quality of service

Quality of service is one of the biggest challenges arising from the uptake of VOIP services, and the most important in the ACA's regulatory regime from CTN's point of view. Consumers want and need service benchmarks. There are 2 categories that must be specifically addressed. The first relates to the availability of true broadband connections.

We want to see the ACA mandate a minimum broadband connection speed of 256kbits and have this incorporated into the CSG. It is important that benchmarks are inclusive of the needs of all consumers, particularly those with disabilities who have the most to gain from VOIP in terms of enhancing their ability to communicate. Some of the greatest technological advances VOIP offers will significantly enhance the communication possibilities of Deaf people. Video over the Internet and use of TTY's will need a minimum download speed of 256kbits, and thus this must be the minimum benchmark in this country. Without high-speed broadband being rolled out across the country, consumers will not experience the promised benefits of VOIP in a universal manner. Affordability issues should not endanger lives.

¹ Online at: http://www.aca.gov.au/consumer_info/fact_sheets/consumer_fact_sheets/fsc08.htm as at 20-12-2004.

Secondly, we need to be aware of and avoid any attempts (deliberately or by omission) to mandate the creation of 2 levels of service for VOIP telephony. To do so would be to encourage potentially unsafe products onto the market which would endanger consumers. Low-income consumers may well be attracted to VOIP services for the cost savings they represent, but this will doubtlessly be at the expense of features that may presently be considered standard- emergency services, for example. If service differentiation belongs in the marketplace, it will develop in line with market wants and expectations. It should NOT be offered as any kind of adequate service, until at least access to emergency services are guaranteed and universal.

Furthermore, customers must be made fully aware of the QOS limitations. Using VoIP may reduce the quality of the underlying broadband connection because voice calls are prioritised over internet surfing for example. Consumer needs may not be the same for any given time, after they have taken up a particular service. For example a voice service may be established as the primary telephony service in a household, and subsequently the consumer may start a business from home. That consumer should have been made aware at the outset, and be able to easily find any time subsequently, what potential effects different usage patterns may have. QOS limitations will be crucial to consumer confidence and usage of VOIP service, and CTN believes it is imperative that information is provided clearly and up-front.

CTN is very concerned about recent reports out of the USA that Broadband Network owners have the means to filter or block users' packets therefore either blocking VoIP calls completely or reducing their QOS. A rural carrier in the USA was recently investigated by the FCC for blocking VoIP calls by Vonage customers. Consumers must be protected from such incursions on the freedom of use of their broadband connections so that they have the full use and choice of applications regardless of the commercial imperatives of their Broadband providers. CTN is concerned that in the future some Broadband providers may introduce Acceptable Use Policies that may in fact restrict a customers use or choice of VoIP services. The example in the USA recently raises serious concerns about the potential for anticompetitive behaviour by providers. There may also be concerns about new unfair terms in contracts which could reduce the customers choice of providers indiscriminately. The ACCC must investigate and regulate accordingly to prevent this from occurring.

Industry Standard: Benchmark for QOS for VoIP

We would like to see assurances from regulators that the provisions of the Customer Service Guarantee will also apply to VOIP services. CTN proposed a CSG for internet services many years ago, and we remain committed to this proposal. Please see Appendix A for the full document. The most widely touted

advantage for consumers has been the cost savings, particularly compared with the cost of a basic line rental.

If the industry expects consumers to replace their landline services altogether in favour of a VOIP service, the same guarantees that apply to landlines must apply from the outset. The best way to achieve consumer protection outcomes is through the development of industry Standards- as opposed to Codes, Guidelines, or any other lesser documents- that set benchmarks of QOS for VOIP products. Performance and reliability issues will have an enormous impact on how successfully VOIP is introduced onto the Australian market; consumers will not accept low quality telecommunications products and they should not be allowed to enter the marketplace through government regulation.

Broadband

A significant issue CTN sees facing VOIP is largely beyond what we perceive the government is willing to consider- a regulatory regime to oversee the widespread implementation of broadband.

It is commonly accepted that VOIP services work only to an acceptable standard through broadband connection to the public internet. The most recent reliable figures suggest that as at March 2005, the total broadband take-up in Australia is around 1.5 million². Our members regularly express their frustration and disappointment about the availability of broadband options, particularly those in regional and rural areas. We recognise the efforts being made through the HiBIS scheme to improve broadband in those areas, but such efforts will not be able to address the underlying issue- that the outlay in regional areas is not profitable and therefore not offered on a wide scale. If we are to see VOIP live up to the hype of industry and the expectations of the community, urgent action is needed on ensuring broadband is reliable and widely available- not just confined to metropolitan major cities.

Dial up internet is not sufficient for consumers to be able to use VOIP services at present, and VOIP is unlikely to become a mass-market service. As of March 2004, dial-up internet subscriber numbers in Australia accounted for 84% of total subscribers³. Suppliers of VOIP products and services need to compete within a marketplace- but first and foremost they need demand. Serious increases to the quality and availability of broadband available to consumers must be made if the ACA expects to be regulating a competitive marketplace.

CTN would like the government to recognise the need that they should assume responsibility for widespread broadband penetration and make recommendations accordingly. Without broadband, VOIP will remain a pipe dream for many

² <http://www.accc.gov.au/content/index.phtml/itemId/591669/fromItemId/2332> as at 14-03-2005.

³ <http://www.abs.gov.au/Ausstats/abs@.nsf/Lookup/6445F12663006B83CA256A150079564D> as at 20-12-2004.

consumers, who through no fault of their own will be denied opportunities and quality benefits because the infrastructure VOIP services need are not available to them.

Access to Emergency Services

Without exception, all telephony services must have access to emergency services. There are no grounds to suggest VOIP services are entitled to any exemption of this requirement. Consumers expect- and have a right to expect- that any service that connects them to another human voice or equivalent will enable them to access emergency services. It is our strong belief that VOIP services that do not guarantee access to 000 should not be available on the marketplace. We'd like to see a clear regulatory response to this issue without delay.

Customer Premise Equipment

The availability of safe, reliable and enabling customer equipment is of the utmost importance to CTN's members, and thus CTN would like the ACA to carefully address the issue of customer equipment standards. The A-tick scheme as it currently applies is an effective but not necessarily foolproof means of protecting consumer safety in access to a telephone service. CTN is concerned with how the scheme would apply to VOIP customer equipment; will it be considered a piece of telecommunications equipment and subsequently require all products to be A ticked? CTN believes this should be mandated, and the ACA must give clear direction to manufacturers and providers of VOIP services in this regard.

In our opinion, access to customer equipment that meets the needs of consumers with disabilities still has a long way to go. Although most pieces of equipment have functions which can assist people with disabilities to communicate, such features are not readily known. ACIF is currently developing a Code to address this problem, but CTN would like the ACA to note the problem and consider creating equipment standards for VOIP hardware, which would mean that customer equipment met the needs of most of the community, rather than just non-disabled people. Preventative regulatory action must ensure that new technologies have customer equipment standards that mean the technology is accessible to the whole community, and avoid the current disadvantages faced by people with disabilities.

Interoperability of VOIP products and services is a related issue. CTN wants the ACA to ensure that all VOIP equipment for sale in Australia are interoperable and backwards compatible. This area of regulation is imperative if the ACA is trying to encourage consumer confidence in new technologies, and this is to be reflected in confidence and satisfaction with VOIP services. It is not sufficient for the marketplace to be populated with goods that don't meet minimum standards

expected by Australian consumers, and this is firmly a matter for the ACA's attention.

A related issue is that of customer service support for VOIP products. Consumers often complain to us that they do not receive adequate post-sales support for the equipment they purchase. Similarly, many complain about the lack of technical expertise of the supposed "help-desk" staff. Like other recommendations we've made, a benchmark system for technical support is one consideration the ACA should make. Once again, CTN believes that the ACA must consider ways to encourage consumer uptake of VOIP, as well as ensuring adequate consumer safeguards are implemented.

We need to consider problems that may arise and work to ensure existing consumer rights are not eroded. We have concerns that consumers may buy products directly off the shelf without knowing if in fact they have coverage in their area, and be stuck with a product that does not meet their needs yet they are not entitled to recourse. Unwired Australia, for example, provide coverage maps with their products but do not guarantee coverage. Although they offer a money back guarantee, this is not a satisfactory practice and does not adequately safeguard the customers rights, as it would not be required under consumer protection legislation. Regulation must ensure other such services recognise the risk the consumer is taking in purchasing off-the-shelf products and place the obligation on the supplier to correctly state coverage information or in lieu of that, offer a money back guarantee.

Another significant issue we foresee is one that applies to all battery operated telecommunications equipment: how to maximise battery reliability and how to minimise the potential for consumers to have their service not connected without their knowledge. This is a concern we faced when cordless telephones gained popularity; consumers did not realise that without power (for example in storm induced black outs) they would not be able to use their telephone service. We hold the same concerns for VOIP, and believe that full disclosure of any potential limitations of the service must be fully disclosed to the customer by the equipment manufacturer- another example of what the ACIF Prices Terms and Conditions does not cover.

We also see set-up costs as raising problems for consumers. If technical expertise is required to set up and use a VOIP product, this must be fully disclosed to the individual consumer. We have concerns that consumers could be out of pocket for using a service without being made fully aware that such costs would apply to them. These issues need to be resolved at the regulatory level, rather than on an ad-hoc basis, so as to benefit and protect the highest number of consumers possible.

Numbering

CTN notes that a significant issue in the ACA's discussion paper pertains to numbering issues. We recognise the issues are complex and varied, but we wish only to make a brief comment for the ACA at this stage.

Our view is that a specified number range may only apply to the price of particular services, in the same way that premium services are prefixed by 190, for example. Consumers must be clearly informed if the cost of a service is of a higher rate than a standard call, whatever that may be. One way of ensuring this is by ensuring such services belong to a specified number range.

We do not support new VOIP numbering ranges to apply geographically, as fixed services presently are. Although we see the advantage of specifying nomadic numbers, there are significant implications for privacy to consider. Emergency service operators must be able to easily identify when a call is made from a nomadic service, much as they are able to identify calls from mobile phones. Even without receiving precise location information from the caller, emergency services can be dispatched to the registered home address of the caller. However this is largely dependant on the judgment made by the emergency service operator. CTN expects the commercial drivers of Mobile Originating Locating Information technology will impact how emergency service organisations can respond to calls from nomadic services in the relatively near future. Without knowing the outcomes of the ACA's report on such technology, it is not possible to advance our thoughts on such issues any further at this point.

Monitoring, Reporting & Auditing for compliance

Government regulators need to establish mechanisms that impose stringent information provision obligations on VOIP providers. If end users are to utilise VOIP services to their full potential, there must be transparency and accountability pointers.

What is presently lacking is information about what problems are developing in the market right now. CTN calls on the ACA to engage with industry to investigate issues like roll out, present VOIP capabilities, trends, and other pertinent facts so as to ensure regulatory intervention- if it's needed- is based on consumer reality, rather than industry hype. The ACA needs to organise an audit of present services and their capabilities, particularly what warnings and claims are made with regard to emergency service connections. More detailed information about industry developments is the only way to ensure regulation is achieving the function of protecting consumers.

Complaints Handling

CTN strongly believes that all new entrants into the field of telecommunications services provision must become members of the Telecommunications Industry Ombudsman Scheme. Providers of VOIP services must not be allowed to provide products without adequate recourse being available to end users should a dispute arise.

One potential scenario of great concern will be where the responsibility lies when problems do occur with new technologies. There is a tendency for companies to blame the customer when their help desk personnel don't have enough expertise to fix the problem. CTN suggests the regulators give consideration to creating a helpdesk service for technical help (not product specific) to help educate consumers. Ideally such a program would run like the Internet Advisory Program, which is funded by Telstra and run through DCITA to provide independent advice when a service is not working. This group could also be responsible for producing consumer awareness literature. We are very concerned about this issue as a result of past experiences with the development of new technologies, and believe it deserves the attention of regulators, the industry, and interested parties.

Billing issues

Transparent pricing will have a large impact on the take up of VOIP products. Consumers do not want unexpected, difficult to understand bills for services they are just beginning to use. We'd like to avoid the confusion that internet billing created in its early days. There is also a need to require a full disclosure to the consumer about how their service provider is and what service is being provided. We have seen widespread confusion in other areas of telecommunications and consider that up-front information will go a long way toward creating consumer confidence. Understanding how services will be charged requires not just an information campaign but uniformity across the industry. It will need to be clear how the different call units - date volume and or number of calls - will be billed. It is important that regulatory guidance exists that requires providers to disclose such information which will have flow on effects on the uptake of VOIP.

We believe real time metering of call costs could be a great advantage made possible by VOIP services. We regularly hear complaints from consumers about how difficult it is to monitor their telephony spending in real time. We hope the regulators encourage the practice of real time metering.

Flat rates are incredibly popular with consumers. It allows them to control their spending (and thus avoid unexpected high bills). We would like the Australian Competition and Consumer Commission to consider including VOIP products in the price cap regime and mandating a flat rate price application. Flat rates are easily understood and mirror the current billing pattern for local calls, which

means the consumer can readily comprehend how they will pay for the service they utilise. Given the current concerns about unexpected high bills, it makes sense to mandate a clear and familiar per-unit- pricing approach.

Like all new technology that arrives in the marketplace, there is likely to be confusion of end users between their expectations and what the services on offer can achieve. CTN would like to see the industry offer trial periods on their products, to encourage uptake and to minimise potential teething problems for consumers. Any regulatory action that can encourage a try-before-you-buy approach for customers, including the widespread availability of pre-paid services, will ultimately benefit the industry and the success of VOIP products. CTN hopes that the issue of bundling- which has so far proven restrictive for consumers and not delivered the cost savings expected- will also be closely monitored to ensure business practices are not adversely affecting potential uptake.

Another serious problem spreading across other parts of the industry that will inhibit consumer uptake of VOIP is the practice of offering services on a direct-debit basis only. There are any number of reasons a consumer may not wish to agree to such a payment method, and refusal to do so should not result in the withdrawal or unavailability of services. New innovations must be available universally to Australian consumers on an equitable, assessable and affordable basis and CTN considers ensuring such a roll out occurs to be the responsibility of governments and regulators. Restrictive payment methods will mean that in addition to availability and set up costs, monthly bills by credit card only will ensure low income consumers once again miss out on the benefits of cheaper calls.

Payphones

CTN has concerns about what consequences may exist for payphones, should the payphone network adapt to a VOIP network. Although this issue is not yet a reality, we think it may arise as a regulatory challenge if VOIP services take off as expected. CTN's position is that a continuing commitment must be made to the continuation of public payphones regardless of the technology that supports the network. Payphones are used for a large number of emergency calls. Unless VOIP networks can guarantee QOS standards, VOIP payphones will not be acceptable as an emergency safeguard available to all.

Security

CTN would like the ACA and DCITA to address network security issues when considering what regulatory arrangements should apply to VOIP services. Technical issues are not CTN's primary focus, but we recognise that such matters will heavily effect consumer confidence and uptake of VOIP services. A few questions that spring to mind are: Can a VOIP phone be hacked in to? Can a

phone service be struck by a virus? What happens if a VOIP service is hacked into and the equivalent of a internet dump occurs? Will consumers be held responsible for services that run up charges which they did not understand – or were not properly explained?

Our members are increasingly concerned about security as a result of increasing number of exposures to spyware, Trojan horses and firewall problems associated with internet usage. The potential for such problems to apply to what is presently a relatively reliable standard telephone service is thus of enormous concern. We'd like to see the issue of network and product security rigorously researched and carefully analysed by the regulators, in conjunction with end user groups. At the very least we believe all VOIP services should have a PIN protection system for multi-occupant dwellings, to ensure that vulnerable consumers are afforded some basic protection, in the same way that applies to their current standard telephone service.

Exemptions

CTN insists there must be no exemptions to VOIP regulation without full stake holder consultation, including with consumers, is conducted. Suppliers of an STS equivalent service must not be even considered for an exemption- they must meet the same regulatory obligations that currently exist.

Community Impact Statement

CTN wants a Community Impact Statement to accompany any attempts to replace the analogue network with a VOIP service on any widespread basis. Our position is that the industry should be required to develop community impact statements for all major new products and services in consultation with consumers before their introduction. If this is done in tandem with trials and pilots, it will ensure that the products and services are as usable and accessible by all sectors of the community as possible and that it does not cause any interference with existing technologies or equipment.

Conclusions

We are strongly of the belief that the industry, government, regulators and interest group must work together to develop clear practices for the sale of VOIP products and the provision of information to consumers. This will build consumer confidence and encourage the uptake of VOIP. Underlying these requirements must be a strong consumer protection regime, which fairly balances the rights of consumers to a safe, enabling and affordable telecommunications service with the wants of the industry to produce innovative and lucrative products and services. It is critical that basic quality of service provisions are established and not relegated as of secondary importance to the interests of "progress".

We do not support a minimalist, hands-off regulatory approach to VOIP services. In order for VOIP to be widely accepted by consumers we must have a robust regulatory framework that ensures consumers are safeguarded.

More details about CTN's rationale in support of these recommendations are outlined in the full submission attached. Should you wish to discuss this response in more detail please contact myself or Sarah Wilson at Consumers' Telecommunications Network where we can be contacted on 02 9572 6007 or at ctn@ctn.org.au.

Yours sincerely,

A handwritten signature in cursive script that reads "Teresa Corbin". The signature is written in black ink and is positioned above the typed name and title.

Teresa Corbin
CTN Executive Director

This submission was prepared by Sarah Wilson, CTN Policy Officer & Teresa Corbin, CTN Executive Director. It has been approved out of session by the CTN Council.

CTN Submission – VOIP