

COMMENTS BY TELEFONICA ON THE SECOND DRAFT REPORT BY THE SECRETARY GENERAL REGARDING IP TELEPHONY – FMPT 2001

First of all, Telefónica welcomes the opportunity to be able to express its comments on this second draft report that the Secretary General has prepared on the occasion of the II World Telecommunications Policy Forum.

In our opinion, the central topic of this forum reflects one of the most interesting challenges that the telecommunications industry is currently facing on the road towards the Global Information Society. We therefore congratulate the Secretary General on his choice and for the magnificent work shown in preparing the same.

We have indicated several remarks whose purpose is to draw attention to some aspects that we consider to be important for the proper understanding and subsequent development of what is meant by Telephony over Internet Protocol (IP).

1. GENERAL REMARKS

It is of primary importance, at the time of the debate on IP Telephony, to clearly define what we are speaking about. In this respect, we must specify in each case whether we are referring to IP telephony (**VoIP**) or to telephony via Internet (**VoInternet**) in accordance with the distinction that is made in Section 1, paragraph 1.2 based on the underlying network. In our opinion, this is quite correct and basic at the time theoretical regulatory treatment is being decided on.

However, this clear distinction is not so obvious in many of the paragraphs in the remainder of the document. As a result, specific situations arise in which the term IP Telephony is used generically without specifying whether it refers to Telephony via Internet (**VoInternet**) or IP Telephony (**VoIP**). As a result of this ambiguity, a variety of interpretations and remarks occur. This is especially the case in various paragraphs of sections 2 and 3.

Thus, for the sake of further clarity, we recommend that each time the term IP Telephony is used, that it specify to which main group it refers.

On the other hand, we are of the opinion that although the debate on IP Telephony is very important, it should not cease to be an additional aspect for consideration as we head towards **convergence of services** in the telecommunications sector. Any technological as well as regulatory treatment that occurs should be linked to the evolution that is taking place within the sector.

2. MATTERS INVOLVING IP TELEPHONY POLICY AND REGULATION

IP Telephony (VoIP) vs. Telephony over the Internet (VoInternet)

A certain ambiguity occurs in the use of the term IP Telephony in the same way as in the document. The lack of an overall agreement on what is meant by **IP telephony** creates a situation in which its regulatory treatment differs greatly in the various Member States. One of the objectives should be to establish a joint concept of what it means so that comparisons can be made and, if need be, harmonised treatments can be recommended at the global level.

We understand that if the principle of **technological neutrality** is complied with, the variety of IP telephony (VoIP) does not cease to be a technological choice, as valid as any other available on the market, by the operator to support the service(s) offered by him. Thus the problem arises whenever the support network for voice service is precisely the Internet.

Therefore, in order to evaluate the importance of this voice service over the Internet (VoInternet), it should be based on **the nature and the quality** of the offering and not on the type of technology used. In this respect, the following aspects are essential:

- Real time switching, and
- It involves a commercial offering to the general public, available to everyone and under the same terms and conditions.

Inasmuch as the regulatory framework is the current one, telephony via the Internet (VoInternet), if it is achieved without being the basic component of the service provided by the ISP, in other words as a secondary supplementary service, which does not replace traditional voice telephony, it can remain outside the scope of the definition of voice telephony, and therefore not be regulated.

However, if the service can replace conventional telephony, being the basic component of the offering, it should be subject to the same requirements, irrespective of the technology that it replaces (**technological neutrality**) and irrespective of whether or not it complies with the criteria currently defined for characterising a service as voice telephony¹.

Nevertheless, the real importance of this service that can replace or substitute conventional voice telephony and, therefore, its regulatory treatment should occur based on its **commercial and competition impact** regarding conventional voice service. In other words, the market will best assess its impact which, in turn, will determine the need for arbitrating any regulatory measure involving this type of service.

Finally, although the end goal that should be sought is for the **market criteria in the regulation** to be applied (seeking an **ex post** regulation and limiting **ex ante** regulation), for services over the Internet as well as for conventional services, this as such does not occur. What is appropriate is that the same regulatory criteria should apply to all those services provided by an ISP that are replacing telephone service.

¹ Perhaps could be very appropriate to define more accurately the meaning of “replacing service” and the recommendations related to the different levels of replacing that could be offered

Convergence and IP Telephony

It is important to point out that the document indicates that IP networks could provide a solution for lowering transmission costs (paragraph 1.4). This assertion is not totally correct since several factors must be taken into account at the time a decision to implement an IP platform for carrying voice traffic is taken. Specifically, the lower cost of these networks is not one of them. As set laid down in paragraph 4.32, no one builds an IP network solely for transmitting voice traffic but as part of a **global strategy of a multimedia services offering**.

The operator's entry situation will weigh heavily at the time the type of support network is chosen. For a newcomer, opting for an IP network can mean lower costs taking into consideration the opportunities for subsequent development in the offering of convergent services. For an incumbent operator who has a network to depreciate, the approach is different.

Thus, in a future-oriented approach, not because it is cheap, but by considering the possibilities of integrating services (**convergence**), the choice of IP networks can prove to be adequate. In this respect, the importance of this paradigm change process is not in IP telephony itself, in its various forms, rather in the consequences that these IP networks are going to have, as facilitators for integrating services, within the phenomenon of convergence.

This capacity of the IP networks, which is made clear in paragraph 4.29, as the integrator of all multimedia services, the difficulty in distinguishing what is voice traffic from data traffic will obviously require current regulatory frameworks to be reconsidered, including perhaps an amendment to international agreements especially within the WTO² framework. Among other topics, this will have an impact on national as well as international interconnection requirements (cross-border calls, routing of traffic, new payment systems, etc.).

Obviously, the evolution towards this converging world will be influenced by several factors involving technology as well as standards that should be dealt with by the various players and bodies involved. Nevertheless, in our opinion, this should not mean an increase in the number of existing regulations or that they should apply to new services but rather a gradual deregulation of the sector (**ex post regulation**). In view of convergence, it is not logical that different regulations be maintained. It is necessary that we evolve towards greater vigilance in complying with the rules of competition on the national as well as international level. Action should only be taken in those cases where they seem inefficient such as non-compliance with the requirements involving Universal Service or the appearance of dominant players who distort the market.

The problem appears not only with the new services and the future evolution, but with the difficulty of applying the current regulatory framework to the new environment where the voice is carried over data networks.

² The use of the Internet as a platform, underlying network, should not be an obstacle in such a way that the services offered over it do not comply with the agreements obtained in the telecommunications annex and the Reference Paper of the General Agreement on Trade and Services (GATS). The Internet may not become a loophole or serve as a pretext for evading the responsibilities assumed in signing the agreement.