



December 17, 2010

(Filed electronically)

Ms. Gloria Blue
Executive Secretary
Trade Policy Staff Committee
ATTN: Section 1377 Comments
Office of the United States Trade Representative
1724 F Street, N.W.
Washington, DC 20508

Dear Ms. Blue:

The Voice on the Net Coalition (or "VON Coalition") hereby files these comments regarding the effectiveness of trade agreements that impact the provision of Voice over Internet Protocol ("VoIP), including market prohibitions and barriers.

The VON Coalition consists of leading communication companies that are developing and delivering voice innovations over the Internet. The VON Coalition works to advance regulatory policies that enable consumers and businesses to take advantage of the full promise and potential of IP voice communications.

This submission references the following agreements:

World Trade Organization (WTO) Agreement on Basic Telecommunications (BTA) and the associated Reference Paper

WTO General Agreement on Trade in Services (GATS)

VoIP is Enabling Vast New Benefits

IP communications is transforming the way consumers and businesses communicate. With the right legal and regulatory framework, IP communications has the potential to enable consumers throughout the world with broadband connectivity to seamlessly integrate voice, data and video over multiple platforms and devices. IP communications allows businesses to increase efficiency and productivity, leading to the creation of more jobs and vibrant economies.

VoIP operates like any application, including e-mail, streaming audio, streaming video, and web browsing. VoIP can be combined with other IP-based applications to increase reliability and robustness of IP networks. The benefits of VoIP communications include cost savings for consumers and government users, reduced operational costs for providers, advanced features (e.g., converting voice mail to e-mail), increased competition, increased infrastructure investment, accelerated broadband deployment, improvements in emergency services, increased access for persons with disabilities and increased worker productivity.

IP communications applications and services continue to evolve. Soon a voice component will be added to any type of device, application or service that uses a microprocessor or touches the



Internet. Already making a call can be just a click away. By disconnecting voice from the underlying infrastructure, voice innovation can now take place at Internet speed, allowing breakthrough advances in the way we communicate, incorporate video and transmit data.

Consumers, business and government users are embracing VoIP in staggering numbers. The ITU estimates that there were about 80 million VoIP subscribers in 2007 and 92 million by 2009. That number could increase to up to 267 million residential VoIP subscribers globally by 2012.¹

Consistent Regulatory Policies Can Unleash VoIP's Inherent Advantages

While VoIP regulation varies around the globe, the VON Coalition has outlined a few basic principles which nonetheless should remain constant:

IP communications is not a new kind of phone service, but a communications transformation. IP communications permits the integration of voice, data and video, enabling a plethora of applications and services not possible with traditional circuit-switched networks.

VoIP is the test case for the broader regulation of new, emerging, and yet unknown IP-enabled technologies and services. What happens with VoIP will impact a wide variety of applications and services that include a voice component.

VoIP requires a new regulatory framework, not the reflexive application of legacy telephone company rules. VoIP should not be governed by rigorous, outdated, or complex regulations that might have made sense 30 years ago. Old rules will stifle innovation for IP-enabled applications, technologies and services.

Broadband providers – either unilaterally or through regulatory fiat – should not be permitted to stifle or stop the use of IP communications applications and services. More recently, there have been concerns that certain mobile operators might be blocking access to VoIP, or requiring the payment of significant surcharges in order to access VoIP applications. Any limitation on access to VoIP will ultimately harm consumers, artificially increase the costs of communications services and stifle innovators developing new voice applications and services.

To the extent that regulation becomes necessary, it should be limited to VoIP services marketed as replacements for traditional telephone services –e.g., PSTN interconnected VoIP that allows consumers both to make and receive calls -- and be considered only where markets forces fail to achieve clearly defined public interest objectives.

Market Barriers Are Stifling Benefits

As broadband penetration escalates around the globe, certain countries and companies have taken steps to erect barriers that limit consumers and businesses from using Internet-based services like VoIP. The actions discussed herein stifle competition and limit investment in new markets. As IP voice gets integrated into more types of software and web applications, barriers to VoIP will inhibit a much wider range of applications, services, and devices.

¹ ITU's Trends in Telecommunication Reform 2009, Summary, page 6.



Several countries that have created barriers for traditional voice services have applied these same barriers to VoIP. In other cases, ambiguities about VoIP classification have allowed incumbent carriers to unilaterally block or restrict the ability of any entity, foreign or domestic, to supply VoIP over the incumbent's broadband network. In other cases access to telephone numbers or the inability to interconnect with the PSTN pose barriers for VoIP providers.

Indeed the state of VoIP regulation is changing quickly – and generally for the better. As the ITU points out, 92 countries allow VoIP, 40 have no regulatory framework and 59 countries have either closed entry or ban VoIP.² In 2004, 46 countries allowed VoIP, while 80 banned it. This is a positive trend but the US government should take advantage of upcoming international conferences to help reduce significantly the number of countries banning VoIP.

Country Specific VoIP Barriers³

India: India legalized VoIP in 2002 but still maintains barriers to market entry by competitive providers, including non-Indian companies. For example, a provider of VoIP interconnected to the PSTN (phone-to-phone) must pay extraordinarily high license fees. In addition, Telecom Regulatory Authority of India (TRAI) has established stringent rules prohibiting VoIP providers from directly interconnecting to the PSTN to terminate calls, and specifically prohibits any VoIP provider from terminating calls to the Indian PSTN whether to a landline or mobile operator, thereby curbing the growth of VoIP in India and limiting the potential of the technology to expand communications opportunities. This means that competitive VoIP providers cannot offer services that enable users to connect to the Indian PSTN. There have also been delays granting non-Indian companies applications to obtain Universal Access Service Licenses, a flexible license that enables them to offer fixed, mobile, and Internet/broadband services.⁴

China: China has restrictions on VoIP termination to the PSTN and strict licensing criteria that delay entry. China employs a licensing system which requires approval by the Ministry of Information Industry (MII) or its local offices in each province to operate within both the basic telecom service market and the value-added service market. MII has controlled the VoIP market's growth by granting VoIP licenses only to China Netcom and China Telecom, the two major fixed carriers.

² ITU's Trends in Telecommunication Reform 2009, Summary, page 24.

³ This list is not intended to be exhaustive. Other countries that block VoIP are described in various articles. For example, *Countries that Block VOIP*, posted January 16, 2010, and found at <http://www.brighthub.com/office/collaboration/articles/61546.aspx>.

⁴ See *Indian govt delays plans for unrestricted VoIP*, ZDNet Asia (February 16, 2009) found at <http://www.zdnetasia.com/indian-govt-delays-plans-for-unrestricted-voip-62051102.htm>.



The following VoIP restrictions still exist in the Chinese marketplace and have not changed since the USTR's last report:

• **Class 5 VoIP Services (i.e., local calls):**

- PC-to-PC calls are not regulated today (although not officially licensed either), however there have been openly-known efforts by Chinese carriers to block the TCP/IP ports used for such calls, or artificially introduce delays and jitters to degrade the voice quality.
- PC-to-Phone calls are officially prohibited, as when a call is terminated on the PSTN, it is considered a basic telecom service. Although in reality, there exists a grey market for PC-to-phone calls offered through resellers of tier-2/3 carriers.
- Phone-to-Phone calls via an Integrated Access Device (IAD) or SIP phones that connect through a broadband network are officially prohibited.

• **Class 4 and Class 2 VoIP Services (Local tandem and long-distance calls):**

- All fixed-line carriers offer these VoIP services today (e.g., VoIP Long Distance calling cards), although in reality, many of the calls are still routed via the traditional circuit-switching network.
- Other than interconnection for international long-distance calls, foreign entities cannot compete in this market, as it is part of the basic telecom service category. Furthermore, only domestic carriers own the network infrastructure for the class 4 and class 2 services.

For now, U.S. firms can only partner with local ISPs that have good business relationships with the incumbent telecom carriers to provide services to corporate users and act as resellers of the long-distance calling services of the telecom carriers.

In order to have a competitive market, the Chinese government must (1) Allow class 5 VoIP service providers to offer VoIP services that interconnect with the PSTN; (2) Clarify that PC-to-PC phone services are permitted and not licensed; (3) Allow non-Chinese companies to offer class 2, 4, and 5 VoIP services within China and eliminate the requirement that a Chinese national own more than 50% of the license-holder and (4) Ultimately, eliminate the burdensome, expensive, and time consuming VoIP licensing regime altogether and allow VoIP providers, whether Chinese or foreign-based, to sell services within China provided they meet minimal conditions for service established by the regulator (similar to the European Union's telecom framework).

Kuwait: The government has strictly enforced bans on VoIP. Indeed, websites offering Internet enabled voice services have been blocked by Internet Service Providers (ISPs) upon instructions from the Ministry of Communications – including U.S. VoIP based web sites, making it difficult for US troops stationed in Kuwait to call home.

United Arab Emirates (UAE): The UAE is limiting VoIP services. In a statement of Regulatory Policy issued December 30, 2009 by the Telecommunications Regulatory Authority, there may only be two licensees legally entitled to provide publicly available VoIP services; other VoIP providers using public networks can have their services blocked by the two licensees.⁵ The only exception is VoIP services that are provided over certain private networks.

⁵ See Voice over Internet Protocol Policy, found at <http://www.tra.ae/tra-policies.php>; Sections 3.1-3.3



Egypt: Egypt prohibits competitive providers from offering VoIP services and only allows the incumbent telephone company to provide VoIP.

Africa: Many countries within Africa forbid the use of VoIP by regulation or by law. In most of the countries there is only one international gateway. Throughout Africa, the VON Coalition encourages increased efforts to open and liberalize markets and help consumers and businesses leapfrog into the digital age.

Armenia: Armentel, the monopoly telephone provider, has, with assistance from the national regulator, successfully prevented VoIP providers from originating or terminating international voice calls on its network, on the basis of its exclusive license. In addition VoIP providers do not have any rights to national numbering resources which limits competition and stalls consumer benefits.

Bangladesh: The Bangladesh Telecommunication Regulatory Commission (BTRC) has stated that VoIP is an illegal call termination business and that international call termination to Bangladesh is a licensed service and may only be provided by the state-owned telephone operator Bangladesh Telegraph and Telephone Board (BTTB).

Oman: Omantel (both the phone company and the only ISP in Oman) blocks all VoIP services. Blocking is accomplished in several ways: by blocking DNS servers, blocking ports, deep packet inspection and banning VoIP software. By blocking these services, VoIP incoming and outgoing traffic has been blocked to and from Oman. Oman's Telecommunications Regulatory Authority (TRA) has taken additional steps to ban VoIP in cyber cafés. Violators may be fined or imprisoned.

Saudi Arabia: The VON Coalition continues to have concerns about market barriers in Saudi Arabia, including Saudi Telecoms continued use of IP tracking technology to block VoIP calls. While it is now legal to use VoIP in and among Saudi government agencies, the public is prohibited from utilizing VoIP until an appropriate data license is granted.

Philippines and Thailand: Both the Philippines and Thailand require competitive providers to establish local companies in-country – a cost-prohibitive limitation – and to obtain telecom licenses before selling VoIP. Thailand goes further by requiring a licensed provider to host servers in-country.



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Conclusion

Around the globe, forward-thinking countries are enjoying the benefits of VoIP through liberalization and the opening of markets. However, some markets still have significant entry barriers to competitive VoIP providers. The VON Coalition believes that – through the proactive enforcement of existing trade agreements -- the United States should continue its efforts, both bilaterally and multilaterally, to bring about a fully competitive global market for broadband, telecommunications services and VoIP, in all of its forms. We would welcome the opportunity to meet with you and discuss how we can work together to achieve our shared goals of open communications markets and the ubiquitous availability of VoIP throughout the world.

Sincerely,

/s/

Glenn S. Richards
Executive Director