

The Global Regulatory Struggle to Address IP Voice and Video Applications

Great Lawyers Will Find a Way
To Turn the Tables in Your Favor



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Industry Convergence

- Communications 20th Century
 - Distinct service providers
 - voice telephony
 - data service
 - video programming
 - information vendors
- Communications Beginning of 21st Century
 - Bundled service providers
 - Local, long distance, and wireless technology
 - Cable and Internet access
 - Internet and IP telephony

Industry Convergence

- Communications Today
 - All communications (voice, data, video) sent via packets by one provider
 - Packets routed on non-geographical, non-hierarchical basis
 - Multiple applications run simultaneously
 - Impossible to distinguish information in packet streams

Regulatory Challenges Today

- IP technology allows various service providers to more easily provide services once provided by other industries
- Difficult to apply statutory scheme in coherent fashion that was drafted to cover each sector separately
- Legislative/Regulatory classifications based on 20th century model
 - Based on type of service (voice, data, video)
 - Based on technology (circuit-switched, packet-switched)
 - Based on geography (local, long distance, international)

Regulatory Challenges Today

- Regulatory Agencies organized along service lines
 - Lack of coordination between agencies/offices
 - Often different agency or office regulates video versus voice services
- Regulation of dominant provider when enters new service area
 - Can dominance in one service be leveraged to facilitate unfair competition in new service, despite being “new entrant”?
 - Do triple play providers require closer scrutiny if dominant in one area?
 - Regulation should not impede investment in innovative infrastructure

Regulatory Challenges Today

- How much deference should be given to industry to draft and police own standards?
- Ex-Ante Regulation versus Ex-Post Regulation

Challenges of IP Voice Regulation

- Regulators in developing countries focus on licensing and market entry
- Regulators in more developed countries debate post-entry issues like numbering resources, access to emergency services, quality of service obligations, payment of regulatory fees, etc.

Challenges of IP Voice Regulation

- Key Issues Tend to Include:
 - Licensing: Regulated, not regulated, “light touch.”
 - Numbering: Issues regarding access to numbering resources and use of geographic or non-geographic numbers.
 - Number Portability: Portability rules typically apply between traditional PSTN-type providers.
 - Emergency Services: E911 mandatory in U.S. whereas most international regulators have opted for a “best efforts” approach. U.S. thinking likely to become more prevalent in other jurisdictions.
 - Interconnection: Depends on whether service is classified as “telecom” service or not. Mainly left to commercial negotiation.

Challenges of IP Voice Regulation

- Key issues tend to include:
 - Tariffing: Generally not tariffed although may be required in certain cases (e.g., Canada).
 - Law Enforcement Issues: CALEA access mandatory in U.S. Global trend to require full compliance with wiretapping rules.
 - Privacy and Data Retention: Not yet discussed in many jurisdictions although very important in EU.
 - Net Neutrality: Key Issue not yet addressed by many countries. Will video applications clog the Net?
 - Anticompetitive Behavior by Incumbents: Limits on or allowance of discriminatory and anti-competitive practices (e.g., Mexico).

Challenges of Video Applications Regulation

- Broadcasters can be regulated by licensing, so if not complying with local laws licenses can be revoked and fines issued
- Content Management Issues
 - Websites with video are neither licensed nor subject to meaningful penalties
 - EU debating extending broadcast content rules to videos offered anywhere including wireless, online games and Internet sites in order to “protect children” and eliminate “hate speech”

Challenges of Video Applications Regulation

- Content Management Issues
 - China blocks access to politically incorrect websites
 - Iran limits speed of Internet service to discourage access to video applications
 - Internet content regulation can have a chilling effect on businesses that might want to put legitimate videos on their sites.
- Copyright protection and digital rights management issues

Conclusion

Questions?

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