

Annex

Summary of the standpoints of the OPTA Commission in relation to obligations towards end users in respect of Voice-over-IP

For further background information, you are referred to the position paper itself, which can be found under the heading 'Position in relation to obligations towards end users in respect of Voice-over-IP services' on OPTA's website (www.opta.nl).

1. The generic obligation in accordance with section 4.10 of the Telecommunications Act to offer number portability applies in full for the providers of services which comply with the definition of electronic communication service and which apply numbers from the national numbering plan. This also applies to the maximum consumer tariff of € 10. The OPTA Commission sees no reason to make an exception in this regard for VoIP based services.
2. In the opinion of the OPTA Commission, the obligations, in accordance with section 6.5 of the Telecommunications Act, with regard to the possibility of making calls to and receiving calls from other countries, also apply to the providers of VoIP networks and VoIP services which comply with the definition of a publicly available telephone service.
3. The OPTA Commission is of the opinion that the obligations contained in section 7.1 of the Telecommunications Act with regard to information which must be issued to the subscriber before entering into an agreement, also apply, in principle, to the providers of VoIP services which comply with the definition of a publicly available electronic communication service or a publicly available telephone service. In its regulatory activities, the OPTA Commission will take into account the fact that at present interpretation problems may arise with regard to information pertaining to the quality of these services.
4. The OPTA Commission is of the opinion that the providers of VoIP services, which comply with the definition of a publicly available electronic communication service, are bound by the obligations stipulated in accordance with section 7.2 of the Telecommunications Act in relation to the procedure to be followed if the agreement with the subscriber is amended.
5. Section 7.3 of the Telecommunications Act governs, on the one hand, the publication by the providers of publicly available telephone services of information with regard to the tariffs and conditions applicable to the use of the services and, on the other hand, with regard to the provision of additional facilities which may be relevant to end users. These obligations also apply to the providers of VoIP services, which comply with the definition of a publicly available telephone service.
6. The obligations pursuant to section 7.4 of the Telecommunications Act in relation to reporting on the quality of services also apply, in principle, to the providers of VoIP services which comply with the definition of a publicly available telephone service and the mobility of which during the call is limited. Until there is more clarity about the quality standards to be applied, the OPTA Commission will exercise restraint in enforcing the respective obligations.
7. The providers of VoIP services, which comply with the definition of a publicly available telephone service, are bound by the obligations contained in section 7.6 of the Telecommunications Act in relation to the access of end users to the subscriber information service. In addition, in the opinion of the OPTA Commission, it is not necessary that they operate a subscriber information service themselves or even that they employ telephone operators.
8. In accordance with section 7.7 of the Telecommunications Act, the providers of VoIP services which comply with the definition of a publicly available telephone service must enable dialling 112.

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The OPTA Commission would welcome it if providers of VoIP services, which do not comply with the definition of a publicly available telephone service, but which do make it possible to make originating calls from telephone numbers from the numbering plan, were to make it possible to dial 112.

9. The OPTA Commission does not consider it a requirement for the time being that VoIP providers take special measures to guarantee the operation of the service in the event of a power failure.
10. Section 7.8 of the Telecommunications Act governs the drawing up of further rules for providers of electronic communication services and networks with regard to consumer protection. The present rules and possibly further rules to be drawn up in the future, as referred to in section 7.8 of the Telecommunications Act, also apply in principle to the providers of VoIP services, which comply with the definition of a publicly available electronic communication service and/or a publicly available telephone service.
11. Section 11.2 of the Telecommunications Act governs the duty of care of providers of currently available electronic communication services and networks with regard to the protection of personal data and the privacy of the subscribers and users. The OPTA Commission is of the opinion that the providers of VoIP services, which comply with the definition of a publicly available electronic communication service and/or a publicly available telephone service, must comply with all the obligations stipulated.
12. Section 11.3 of the Telecommunications Act governs measures which the providers of publicly available electronic communication services and networks must take to guarantee protection of the personal data and privacy of subscribers and users. In the opinion of the OPTA Commission, in the case of a VoIP service, which complies with the definition of a publicly available electronic communication service and/or a publicly available telephone service, if the provider of the network and the provider of the service are separate, both are responsible for taking measures to protect the personal data and to protect the privacy of subscribers and users.
13. Section 11.4 of the Telecommunications Act governs, for instance, the protection of the privacy of consumers in relation to the provision of a specified invoice and the deactivation of call forwarding. These obligations will also apply in full to the providers of VoIP services which comply with the definition of a publicly available electronic communication service and/or a publicly available telephone service.
14. The OPTA Commission is of the opinion that providers of services, which comply with the definition of a publicly available electronic communication service and/or a publicly available telephone service, must comply with the obligations contained in section 11.5 of the Telecommunications Act in relation to the retention of telecommunications traffic data.
15. The obligations pursuant to section 11.5a, in relation to guaranteeing the subscriber's privacy, also apply to the providers of VoIP services or networks that comply with the definition of publicly available electronic communication services and/or networks.
16. The obligations pursuant to section 11.9 in respect of providers which offer number identification, also apply to the providers of VoIP services and networks. This relates to offering facilities such as number blocking and block blocking.
17. The obligations pursuant to section 11.10 of the Telecommunications Act, in respect of the forwarding of information in relation to 112 calls, also apply to the providers of VoIP services, which comply with the definition of publicly available telephone services.
18. The providers of VoIP services which comply with the definition of publicly available telephone services, must provide the managers of the emergency centre with information on whether the respective subscriber has purchased a nomadic service or not.

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19. In so far as this is technically possible, the provider of a VoIP service which complies with the definition of publicly available telephone services, must provide location information together with the emergency call.
20. Section 11.12 of the Telecommunications Act governs the possibility of granting an exemption from certain obligations in certain cases. The OPTA Commission sees no reason to grant generic exemptions, as referred to in section 11.12, to VoIP providers.
21. Section 11.13 of the Telecommunications Act governs the possible exceptions in relation to compliance with certain obligations. The OPTA Commission sees no reason to make generic exceptions, as referred to in section 11.13 of the Telecommunications Act, for VoIP providers.
22. The OPTA Commission is of the opinion that pursuant to section 12.1 of the Telecommunications Act, the obligatory affiliation to a recognized Disputes Committee also applies to the providers of VoIP services.
23. Section 12.9 of the Telecommunications Act governs the resolution by the OPTA Commission of disputes between consumers and providers. The OPTA Commission sees no reason to treat disputes involving VoIP providers differently to disputes involving other providers.