

August 2008

ETNO Reflection Document in response to ECC/ CEPT consultation on Fixed-Mobile Convergence with Survey of Numbering Related Issues

Executive Summary

ETNO has considered the arguments being raised in the ECC/ CEPT consultation on Fixed-Mobile Convergence with Survey of Numbering Related Issues and has substantial concerns on certain issues presented in this report. These relate to the characteristics of the FMC services suggested in the report, regulatory issues relevant to Interconnection and in particular voice termination and the interpretation of the concept of technological neutrality under the EU framework, as well as conclusions on CLI presentation, emergency call handling and number portability. ETNO calls for an in-depth review of the CEPT Report on Fixed-Mobile Convergence.

Introduction

ETNO has considered the arguments being raised in the ECC/ CEPT consultation on Fixed-Mobile Convergence with Survey of Numbering Related Issues and has substantial concerns on a number of issues presented in this report; therefore ETNO calls for an in-depth review of the CEPT Report on Fixed-Mobile Convergence. A comprehensive analysis on the relevant issues is being presented in this document.

Issues

FMC service

FMC in this report is understood as “a wide range of mobile services that converge elements of fixed communications infrastructure to complement the core mobile service” whereas the ITU recommendation refers to a “given network configuration” that provides services independently of the access technology used.

Moreover this report suggests that FMC refers to “mobile services” that converge to fixed, while in actuality convergence is a two-way process. This assumption is derived from the fact that the “so called” FMC services suggested in this report, currently offered by operators, are either services that use a dual terminal equipment to provide access to separate network configurations (mobile and fixed) or “emulate” fixed access using mobile network configurations.

Therefore the numbering issues in truly converged FMC services, in line with the ITU recommendation definition provided for use in NGN networks, remain to be investigated when these truly converged services will be on offer. In such future circumstances it should be considered that both fixed and mobile operators will provide such converged services.

Regulatory Aspects and Technology Neutrality

Market definition under the EU framework is carried out in a technologically neutral manner in accordance with competition law principles. On this basis, so far national regulatory authorities and the European Commission have rarely adopted market definitions that comprise both mobile and fixed voice services. The regulatory implications of fixed-mobile convergent services and, where observed, fixed mobile substitution on market definitions will be dealt with in the context of ongoing market analyses and subsequent reviews of the Commission’s Recommendation on relevant markets. It should be noted that the majority of retail markets is no longer regulated under the current Recommendation so that the question of market definition for regulatory purposes is no longer relevant for the majority of retail services (including voice services).

The concept of technological neutrality is rightly described in the document, but then interpreted in an overly rigid way under 4.3 (s. below).

Interconnection issues and tariff related issues

ETNO is concerned that the document may unnecessarily jump to conclusions on the regulatory issue of Interconnection and voice termination in particular. The chapter does not reflect the complexity of the issues raised and a number of the statements made are either contestable or still under debate.

The regulatory framework for Interconnection is currently addressed by the European Commission as concerns the methodology for calculating the costs of termination rates and by the European Regulators Group, ERG, as concerns regulatory principles for IP interconnection and NGNs. ETNO is contributing comprehensively to both processes¹. In these contribution, we also explain why charging “zero termination rates” as the CEPT consultation document suggests is not a viable alternative for voice termination unless under specific circumstances where it is agreed between operators on a voluntary basis. As

¹ The ETNO position on IP Interconnection, ETNO Reflection Document RD286 (2008/07), is available at <http://www.etno.be/Default.aspx?tabid=2014>; the ETNO reply to Commission consultation on termination rates will be available on eth ETNO website beginning of September 2008

further developed in ETNO's Reflection Document on IP Interconnection and NGN regulatory principles², regulatory mandated "bill and keep" arrangements would distort competition and incentives for investment and create a number of new problems such as an increase in so-called 'SPIT'. It is noteworthy in this context that a number of countries that were not using the Calling Party (Network) Pays (CPP) system including China and India, have adopted this model in the last few years.

Also, substantial cost differences exist between mobile and fixed networks which will continue to lead to different termination rates for fixed and mobile networks. The wording in the consultation document that "the cost bases of fixed and mobile are not compared on an equal basis" (§4.3) since parts of the access network for mobile are taken into account in the cost of termination is unfortunately misleading as it suggests that a change (i.e. a comparison on an "equal basis") would be more appropriate. In cellular networks, however, a large part of the costs of the access network are traffic-related and therefore have to be part of the cost calculation for termination.

The statement that there is a problem with cost based termination because it is "not technologically neutral because costs relate to technology" seems to misinterpret the concept of technological neutrality under the EU framework. Technological neutrality is aimed at not applying different principles to different technologies or favouring one technology over the other, which would distort technology choices. However, it is clearly not aimed at abandoning regulatory approaches where technological differences have to be taken into account, such as in costing and pricing.

As a conclusion, ETNO encourages CEPT to not focus on perceived "problems" of cost-based termination rates but describe the Interconnection environment in a more neutral manner as considered necessary for the conclusions and recommendations on the main issues covered by the paper.

Regarding Carrier Selection and Carrier Pre-selection issues, it should be noted that in the current review of the EU framework, the obligation for C(P)S will be lifted and C(P)S only be an optional tool for NRAs were still warranted due to a specific market failure identified on a relevant market.

CLI

Some of the arguments put forward regarding CLI are not based on clear reasoning. Describing fictitious user behaviour patterns (§4.5) to support justification for providing a mobile number as the CLI of a service originating from a geographic number does not take into account possible implications for end users and potential competition issues.

It is the case that one of the most important features of the CLI is to return a call based on CLI information. Therefore an end user that would like to return calls to a subscriber that enjoys the retail tariffs of fixed voice services and a geographic number, even if this call is delivered through a mobile network, should be able to enjoy the same tariff schemes. If this end user returning a call

² S. ETNO Reflection Document RD286 (2008/07), p. 13 - 16

is compelled to call a mobile number with mobile retail tariffs, because the CLI number provided for this service is a mobile number, the end user returning the call is unduly charged, indirectly “subsidising” this service.

Therefore ETNO suggests that if a national regulator has allowed for geographic location services to be offered over mobile networks, then normal CLI rules should apply, i.e. geographic CLI from geographic location service.

Emergency services

The document presents an overcomplicated case. The Universal Service Directive states that “Member States shall ensure that undertakings which operate public telephone networks make caller location information available to authorities handling emergencies, to the extent technically feasible, for all calls to the single European emergency call number 112”. Therefore the providers that terminate the calls to the emergency number 112 should be able, irrespective of the number used for the telephone service, to provide caller location information to the call in taker of the emergency centre, taking account of the technology used. It should be irrelevant to the call in taker if the access part of the service is “a radio leg” or a fixed line; the caller location information is presented from the provider that terminated the call to the emergency number.

What needs to be underlined is that it preferable that the CLI provided to the emergency centre is the number from which the call was initiated in order for the emergency call in taker to be able to call back and access the caller in need, when technically feasible.

Directories

This part of the document refers to an issue that has been resolved in all member states. According to the report when “mobile networks emerged it was not economically feasible to start to publish a competing directory for relatively few numbers. As fixed and mobile network operators traditionally were competitors, there was no easy solution in finding one single directory for both fixed and mobile numbers”. This analysis does not take into consideration the text of the Universal Service Directive which states that “All service providers which assign telephone numbers to their subscribers are obliged to make relevant information available in a fair, cost-oriented and non-discriminatory manner”. Directories that incorporate both fixed and mobile numbers have been introduced in all member states. Therefore we suggest that this section should be removed.

Numbering options and Number Portability issues

Numbering should provide for tariff transparency for consumers.

Therefore for FMC services using geographic numbers, geographic retail tariffs and geographic CLI should apply, while for FMC services using mobile numbers, mobile retail tariffs and mobile CLI should apply. Service Providers that offer FMC services should respect these basic conventions in order to

provide for tariff transparency for consumers, while the decision for which option should be followed should be left to operators, based on their business models.

The introduction of a new numbering range as a possible option for the cases being studied is rejected by the report. This is rightly so, but not because of the technical implementation issues mentioned, but mainly because of wholesale and retail pricing issues (i.e. interconnection agreements and end user tariff perception) both nationally and internationally.

Regarding number portability between geographic and mobile numbers, this option will not be successfully introduced, as long as retail tariffs and wholesale interconnection agreements do not make such an option commercially viable. According to the Universal Service Directive the member states should ensure “transparent tariff information, both for end-users who port their numbers and also for end-users who call those who have ported their numbers.”

Conclusion

ETNO has concerns on a number of issues raised in this report:

- The FMC services suggested in this report are not in line with the ITU recommendation definition provided for NGN networks. Moreover the analysis of FMC services should take into consideration that both fixed and mobile operators will provide such services.
- The conclusions on the regulatory issues of Interconnection in general and voice termination in particular, do not reflect the complexity of the issues, while a number of the statements made are either contestable or still under debate.
- The statement that there is a problem with cost based termination because it is “not technologically neutral because costs relate to technology” seems to misinterpret the concept of technological neutrality under the EU framework.
- The conclusions on CLI presentation, ETNO suggests that for the “so called” limited FMC services discussed in this report, normal CLI rules should apply, i.e. geographic CLI from geographic location service, mobile CLI from a mobile service. This is more accurate and reasonable approach regarding the CLI provided to emergency centres, so that call in takers, when technically feasible, will be able to call back and access the caller in need.
- Finally regarding number portability between geographic and mobile numbers, this option cannot be successfully introduced as long as retail tariffs and wholesale interconnection agreements do not make such an option commercially viable or would mean that customers would not be able to determine the cost of a call from the number dialled.

Based on the above the numbering options presented and the conclusions made on the provision of FMC services, in the CEPT Report on Fixed-Mobile Convergence with Survey of Numbering Related Issues, should be revisited.