

## Restrict VOIP Regulations to Federal Standards

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February 2009

### Summary

We live in a world where leaps in technology happen on a regular basis. One of the latest jumps is technology that lets telephone users make calls over the internet. Voice over Internet Protocol (VoIP) allows a person to talk to anyone in the world for a fraction of the cost of a traditional long distance call.

Adoption of VoIP services has exploded over the last several years. According to the National Cable & Telecommunications Association, at the end of 2005 there were fewer than 6 million VoIP customers. By the end of 2008, that number had tripled, to 17.7 million customers.<sup>1</sup>

Washington legislators have introduced Senate Bill 5628 and House Bill 1585 to restrict the ability of state agencies, or agency subdivisions, to regulate VoIP. This limits regulators from dictating rates, terms and conditions of service, or the entry into the market by a digital voice provider.

The fast pace at which technology improves makes regulating such market changes impractical. The fact that VoIP took off as a nationwide communications tool led state regulators to hold off regulating certain aspects of it. This was a wise idea, primarily because over the last several years the FCC established a national framework of regulations around VoIP. More restrictive state regulations would only have made entry into the market for service providers more expensive and complicated. In the end, this would have hurt consumers in our state.

The idea that state regulators should refrain from regulating this important medium of communication was recommended early on in a Policy Note by Washington Policy Center back in 2004.<sup>2</sup>

### How VoIP Works

Here's how VoIP works. An adapter attached to a standard telephone converts voice transmissions into digital data, which is then sent over the internet just like any other type of computerized information. When it arrives the transmission is converted back into audible speech that the recipient hears over a regular telephone. Some technicians refer to a VoIP conversation as an e-mail that talks, since the technology for sending both kinds of message is essentially same.

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<sup>1</sup> <http://www.ncta.com/IssueBrief.aspx?contentId=3023>

<sup>2</sup> "State Officials Want to Tax the New Way to Make a Phone Call," by Paul Guppy, Washington Policy Center, Policy Note 04-12, 2004.

VoIP services have come a long way since the service began in the early 2000s. A person or business in Washington has access to dozens of service providers. Some options can cost upwards of \$50 a month or more (most often for business users) and some are free. Most are capable of handling calls to or from around the world. And while all require that a user have access to a high-speed internet connection, a VoIP user can call a non-VoIP telephone number.

The computer can also act as an answering machine, recording messages when you don't want to answer the phone. People can check their messages from anywhere in the world by dialing into their home phone over the internet. VoIP can include conference calling, call waiting, call forwarding and many other features currently available with existing phone service. The difference is VoIP usually costs 30% to 40% less, making worldwide voice communication more affordable for everyone.

## **Talking as a “Taxable Event”**

The ability to talk over the internet promises to be the biggest improvement in the telephone since Alexander Graham Bell placed the first call in 1876. Making sure that state regulators take a “hands off” approach to VoIP services is important, particularly because the FCC already regulates VoIP on a national scale. Retaining a national regulatory framework for this technology, as opposed to states enacting their own individual regulations, will help ensure that consumers have access to the most choices in the VoIP marketplace.

Another worry is that because of state budget constraints, policymakers would eye VoIP services for increased telecommunications taxes. That is a real possibility because policymakers have looked at VoIP services as a potential new source of tax revenue in the past. Governors and local officials have talked about wanting to apply all state and local telephone taxes to the internet, thus “capturing lost revenue” (to use the language of government) from citizens who might otherwise make a phone call without paying a tax. Fortunately, this has not happened yet.

In the past, however, The National Governors Association (NGA) lobbied hard in Congress to allow state and local taxation of internet phone calls. The NGA argues that a telephone conversation is a “taxable event” and that any new technology that lets people talk to each other should be taxed. State officials fear “losing” up to \$9 billion a year in money that would otherwise stay in citizens’ pockets. It is difficult to see how state officials can lose money they never had in the first place. But, as the NGA’s spokesman puts it, without the ability to tax Internet VoIP “there’s a real risk that the future of telecommunications becomes tax free.”

The Federal Communications Commission has already set in place a number of regulations and fees to be applied on a nation-wide scale. Even if these regulations and fees drive up the cost of VoIP services, a national framework is preferred to a state-by-state system. This helps ensure customers in Washington are just as likely to have access to services available in other states. Regulating on a state-by-state basis would have the detrimental effect of potentially blocking services to people living in highly-regulated states.

Some of the fees and regulations the FCC has enacted on VoIP services include:

- Enhanced-911 obligations
- Protection of customer proprietary network information, such as calling records
- Universal Service Fund tax
- Telecommunications Relay Services tax
- Telephone Assistance Program tax
- Local number portability rules

An additional problem is that new state taxes or fees tend to take on a life of their own. Once government budget-makers get used to a steady revenue stream they are reluctant to give it up. For example, Congress imposed a temporary tax on telephones to help pay for the Spanish American War. It took over a century to repeal that tax.

## **Conclusion**

Like the internet itself, VoIP is a case of innovation and inventiveness advancing faster than government regulation. Deliberative government certainly has its place, but sometimes it is best for the regulators to stay out of the way and let a new idea reach its full potential.

Restricting state regulators from imposing new taxes, fees or barriers to entry for VoIP providers is working and already providing benefits to consumers.

*Carl Gipson is director for small business and technology at Washington Policy Center. Washington Policy Center is an independent, nonprofit, 501 (c)(3) research and education organization. Nothing appearing in this document is to be construed as an attempt to aid or hinder the passage of any bill before any legislative body.*