



Frequently Asked Questions About VoIP Classification

Below are some frequently asked questions and answers about the technical and regulatory aspects of Voice over Internet Protocol, or VoIP, classification.

What is VoIP?

A: Voice over Internet Protocol, or VoIP, is a broad term for a variety of technologies that convert speech into data packets enabling consumers to make voice calls over the internet protocol network instead of over a traditional phone line.

Why is VoIP important?

A: VoIP has become the dominant way in which consumers make calls; according to the Federal Communication Commission's 2020 Communications Marketplace Report, today, around 70% of all fixed residential voice services are VoIP. To the average consumer, there is no discernable difference between a call made using VoIP or one using the traditional landline phone network.

What is interconnected VoIP and how is it different from non-interconnected VoIP?

A: Interconnection refers to the ability of the VoIP provider to connect with the public switched telephone network, or PSTN, which is the structure that remains of the traditional telephone system. Interconnected VoIP services can deliver calls to non-VoIP telephones and use regular 10-digit phone numbers.

A non-interconnected VoIP services use a directory system, like usernames or email addresses, to connect users to one another through the service but don't allow for calls to be placed to the PSTN. For example, an app that only allows a user to place a call to other users on the app is most likely an instance of a non-interconnected VoIP service.

Some services offer both interconnected and non-interconnected VoIP. For example, Skype allows users to call other Skype users directly via username but also allows premium users to call regular phone numbers on the PSTN.

What is the difference between “facilities-based” and “nomadic” VoIP service?

A: Facilities-based VoIP services are those connected to particular hardware or service locations and are usually provided by an internet service provider. For example, a VoIP landline phone service plan delivered by one's internet service provider. These services typically provide both the VoIP service as well as the means by which the service is transmitted (i.e., the internet connection) together.

A nomadic VoIP service provides the user with a phone number and hardware or software that can be connected to any internet connection and used to make and receive calls. This is just the “routing” aspect of phone service without the actual transmission capabilities that facilities-based service provides. However, this allows the user to physically move around and use the service wherever they connect to the internet (hence, “nomadic”).

Whether a service is facilities-based or nomadic, it might be either interconnected or non-interconnected.

How is VoIP service currently classified and regulated?

A: VoIP services are currently subject to a complex and inconsistent patchwork of rules depending on the characteristics of the VoIP service.

Since 2004, the FCC has classified non-interconnected VoIP as an “information service” under Title I of the Communications Act. Because Title I does not provide the FCC with specific authority over information services, these services do not have to be able to reach 911, or provide any of the other consumer protections that traditional voice services provide. The FCC has also preempted the states from regulating non-interconnected VoIP.

At the same time, the FCC has refused to classify interconnected VoIP services despite their interconnection and compatibility with the traditional telephone network—the archetypical Title II service. Title II gives the FCC authority to create rules that protect consumers and make sure the network works reliably. The FCC has used “ancillary authority” (basically, the extension of its Title II authority from the traditional telephone networks to things that the telephone network touches) to impose some of those rules on interconnected, and especially facilities-based interconnected, VoIP service. However, because interconnected VoIP remains unclassified, there is confusion in the courts about whether the FCC has preempted the states from regulating interconnected VoIP services.

Why is it important that interconnected VoIP is classified as a Title II service if the FCC can already apply protections through its ancillary authority?

A: Ancillary authority depends on the existence of a regulated Title II service—in this case the traditional telephone network—as a “hook” to apply regulations to interconnected VoIP. However, every year the traditional switched telephone network shrinks as its outdated technologies are replaced by broadband and thus by VoIP. The service providers plan to eventually fully eliminate the traditional telephone network by replacing it with VoIP everywhere, and when that happens the FCC will no longer have a “hook” for its ancillary authority. This “sunset” of the traditional telephone network is accelerating and will happen soon, so it is imperative that the FCC act swiftly to classify interconnected VoIP as a Title II service, recognizing it as the natural inheritor of the old telephone network.

How would consumers be harmed if VoIP classification does not occur?

A. Because “ancillary authority” depends on the existence of a regulated Title II service, the failure to classify VoIP (or classifying it as an information service) would essentially end the FCC’s authority over communications infrastructure. As a practical matter, consumers would lose important consumer privacy protections that protect such information as location of calls and call history. They would lose truth-in-billing protections that both prevent unauthorized charges on consumers’ bills and require clear descriptions for services on consumer bills. The Commission would no longer have the authority to assess Universal Service Fund contributions from interconnected VoIP providers, eliminating any source of funds for Lifeline service and programs like E-Rate, the COVID-19 Telehealth Program, and the High Cost/Rural Digital Opportunity Fund. The Commission could also lose the ability to ensure accessibility for those that are hearing or sight impaired on their mobile phones.

Of equal importance, the Commission would lose its authority to require participation in the existing Disaster Information Reporting System, as well as any other oversight over the physical network. The FCC would have no authority to require providers to serve rural areas or to prevent carriers from offering inferior service in rural areas or the urban core.

What are the harms to competition?

Without classification as a Title II service, VoIP providers could lose access to interconnection rights (basically the ability to connect with other providers to ensure consumers’ calls are connected to the person being called). Other harms could include access to poles for expanding service, the loss of the ability to review agreements to provide for affordable access to competitive carriers, and the loss of license transfer review.

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