

INTERCONNECTED VOIP REGULATORY COMPLIANCE MANUAL



Regulatory Compliance Guide for Telecommunications
Services and Interconnected VoIP Providers

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- APPENDIX B - STATE LEGISLATIVE & REGULATORY MATRIX
- APPENDIX C - THE HISTORICAL BACKGROUND OF VOIP REGULATION
- APPENDIX D - SAMPLE FCC FORMS AND INSTRUCTIONS
- APPENDIX E - OVERVIEW OF CANADIAN VOIP REGULATION

INTRODUCTION

Within the last decade, Voice over Internet Protocol, or VoIP, has grown from a nascent, unregulated industry into a potential replacement service for traditional telephony. While the growth in internet-based communication services has yet to completely eradicate existing wireline services, the emergence of VoIP as a strong competing alternative has recently caused Federal and State regulatory agencies to re-examine their unfettered treatment of IP-based communications services. The official position of both Federal and State regulators has been to maintain a “light-touch” regulatory approach to VoIP services. Nevertheless, the emergence of VoIP as a viable alternative to existing telephone service has raised the specter of regulatory oversight for certain aspects of VoIP.

Thus far, comprehensive Congressional legislation on the issue has yet to emerge. And the country’s chief telecommunications regulatory agency, the Federal Communications Commission (FCC), has been reluctant to fully classify VoIP services as either an unregulated, information service or a heavily-regulated, traditional telecommunications service. Instead, the FCC has engaged in a piecemeal approach over the past several years, imposing regulations on interconnected VoIP services, a specific flavor of VoIP service that utilizes the Public Switched Telephone Network (PSTN).

The FCC has determined that “interconnected” VoIP services—which enable users to place calls to *and* receive calls from the PSTN—should be subject to many of the requirements applicable to traditional telephone services, while other forms of VoIP services (such as peer-to-peer services that do not make use of traditional telephone numbers) have been left largely unregulated.

Specifically, the FCC has subjected interconnected VoIP services to regulations concerning emergency communications (E911), telecommunications relay services for hearing-impaired individuals (TRS), customer privacy (CPNI) and the facilitation of wiretaps and government surveillance (CALEA). In addition, the FCC ruled that providers of interconnected VoIP services must contribute to the Universal Service Fund (USF), a subsidy mechanism that supports the provision of telecommunications services in rural areas; to schools, libraries and rural health care facilities; and to low-income consumers.

The FCC has not placed obligations on other IP-based service providers, such as those that provide instant messaging, Internet gaming and computer-to-computer voice communications services, because customers of those services cannot receive calls from and place calls to the PSTN, even though the services may contain a voice component.

State regulation has remained minimal in the face of the FCC’s reluctance to label interconnected VoIP as a full-blown replacement for traditional telephone services. However, some state regulators, faced with public interest issues such as shrinking Universal Service revenue, emergency services support, and consumer protection, have started to make inroads into the regulation of in-state, interconnected VoIP services. The result of this has been a complicated and often times conflicting approach to the regulation of VoIP service.

The new willingness by both State and Federal authorities to press forward with VoIP regulation sends a clear signal that the unregulated honeymoon is over. It is certain that VoIP regulatory compliance will continue to remain dynamic and change over time as these issues are worked out. The implications of this are monumental and may carry significant consequences for new and existing VoIP service providers.

In an effort to assist interconnected VoIP service provider's navigation of the complex world of VoIP regulation and ensure compliance with such regulation, The *CommLaw* Group prepared this **Interconnected VoIP Regulatory Compliance Manual**.

This **Interconnected VoIP Regulatory Compliance Manual** presents a comprehensive summary of regulatory requirements applicable to providers of interconnected VoIP services. This Manual should be used as a reference tool to understand an interconnected VoIP service provider's regulatory obligations at the federal and state level and ultimately keep VoIP service providers in compliance with all major regulations that affect the provisioning of VoIP services.

This Manual **does not** provide a comprehensive review of the state or local taxation of VoIP services and should not be relied on for tax advice.

The Manual is organized into the following Chapters:

- Federal Regulation and Compliance Overview
- Licensing & Registration Requirements
- Customer Proprietary Network Information (CPNI)
- Communications Assistance For Law Enforcement Act (CALEA)
- E911
- Telecommunications Relay Service (TRS)
- Universal Service Fund (USF)
- International Traffic & Revenue Reporting
- Local Competition and Broadband Collection Reporting (FCC Form 477)
- Miscellaneous Contribution Requirements
- Federal Consumer Protection Requirements
- Federal Preemption

Additional, in-depth information on federal, state and international regulations affecting VoIP providers may be found in the attached Appendices:

- Appendix A – Summary of Federal Regulatory Action
- Appendix B – Summary of State VoIP Legislative and Regulatory Action
- Appendix C – Discussion of the historical shaping of VoIP regulations
- Appendix D – Sample forms and instructions
- Appendix E – Overview of Canadian VoIP Regulation

1. FEDERAL REGULATIONS – SUMMARY

E911 Requirements

Technical Requirements:

- Interconnected VoIP providers must transmit all customer 911 calls and customer automatic number identification (ANI) to the caller's designated Public Safety Answering Point (PSAP).
- 911 call routing must be accomplished through ANI.
- The PSAP must know the caller's Registered Location.

Regulatory Requirements:

- Customer Registered Location information must be collected from customers prior to service initiation.
- Customers must be notified of 911 limitations.
- Customer warning labels must be distributed.
- Providers with annual revenues equal to or greater than \$138 million must file an E911 Architecture Information System Report.

Communications Assistance for Law Enforcement Act (CALEA)

- Interconnected VoIP providers are required to comply with CALEA.
- Providers must facilitate Law Enforcement Agency (LEA) wiretaps, traces and other lawful surveillance.
- Providers must comply with systems capability requirements set forth in CALEA Section 103.
- CALEA compliance may be achieved through Trusted Third Parties (TTPs).
- Providers must file and maintain up-to-date System Security and Integrity (SSI) Manual with the FCC.


GENERAL REQUIREMENTS (CONT'D)

Auditing Requirements

In an August 2007 Report and Order, the FCC noted that the Office of Inspector General (OIG) was, at the time, overseeing four-hundred and sixty (460) audits on both USF contributors and beneficiaries, and that the FCC may choose to reevaluate auditing procedures once these audits have been completed.

In addition to the on-going OIG audits, similar to taxpayer audits performed by the Internal Revenue Service, participants in the USF program are subject to random audits by the USF Administrator, USAC and its delegated agents.

Document Retention Requirements

 **Compliance Trigger:** Record retention policies for all USF contributors have been extended to five (5) years. Under the new regulations, contributors must retain all documents and records which demonstrate to auditors and/or the Enforcement Bureau that USF contributions were made in compliance with the program rules. Contributors must make available all documents and records that pertain to USF contributions, including those of contractors and consultants working on their behalf, to the FCC's OIG, to USAC, and to their agents.

These documents and records include, without limitation, the following:

- financial statements and supporting documentation;
- accounting records;
- historical customer records; and
- general ledgers.

Contributors should also retain any other relevant documentation used to support Form 499 revenue reporting and their determination and remittance of USF contributions.

Likewise, contributors should retain similar documentation to the extent applicable to their reporting and determination of contributions and payments to other FCC Programs, such as TRS Fund, LNPA, NANPA and Regulatory Fees.

STATE LEGISLATIVE & REGULATORY MATRIX

Sample

Alabama

State Contacts

Public Service Commission

P.O. Box 304260 100 N. Union St. Suite 992
Montgomery, AL 36103
Phone: 334-242-5218
<http://psc.alabama.gov/>

Agency Contact:

Mr. Doug Dillard
Phone: 334-242-2819
Email: doug.dillard@psc.alabama.gov

Regulations at a Glance

Universal Service: There is no requirement that VoIP providers register with the Alabama PSC, as the PSC does not have authority over VoIP services.

Registration: There is currently no state Universal Service Fund in the state of Alabama. The Alabama Public Service Commission also does not currently have authority over VoIP services (See <http://www.psc.state.al.us/Telecom/webpage3.htm>).

TRS Contribution: There are no Alabama state TRS contribution obligations in Alabama.

E911: No regulations defined.

Additional Notes: