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# TELECOMMUNICATIONS GUIDE

## Phone Calls On the Internet Will Have Major Impact On Society

Phone calls over the Internet – via Voice-over-Internet Protocol, or VoIP – are expected to play a big role in the future of telecommunications. The federal courts and the Federal Communications Commission (FCC) will decide soon just how big that role is, at least for the near future. For consumers and society, the implications of Internet phone service could be huge. Universal service, emergency 911 services, a level playing field for telecommunications competition, even the public switched telephone network itself and the health of rural economies could all be significantly affected. Here's a brief look at where things stand today and how we got where we are.

### Minnesota's "15 Minutes"

Last August, Minnesota stepped into the national spotlight briefly when the state Public Utilities Commission (PUC) ruled that Vonage Holdings Corp., an Edison, N.J. VoIP provider, was a telephone company doing business in Minnesota, making it subject to state rules and regulations, including the collection and payment of fees for the 911 system. The PUC's ruling was the first of its kind.

Vonage, whose customers make calls on telephones connected to computers with high-speed Internet service, argued in U.S. District Court that it was an information service and not subject to state rules. The PUC argued that Vonage was a phone service that was simply using a different transmission method.

Judge Michael Davis of Minneapolis agreed with Vonage and issued a permanent injunction in October preventing the PUC from enforcing its ruling. In January, the judge denied the PUC's motion to amend his order or allow a new trial. He also denied motions by Qwest and the Minnesota Department of Commerce to intervene in the case. The PUC appealed the judge's original ruling to the 8<sup>th</sup> Circuit Court in St. Louis, which has yet to issue a decision in the matter.

The PUC originally asked that Vonage be regulated because it didn't provide adequate 911 services. (Vonage customers dialing 9-1-1 reach a call center that reroutes the call to a 911 system dispatcher. Calls don't immediately go to a public safety answering point as they do when 9-1-1 is dialed on landline and wireless phones. The addresses of VoIP callers also don't appear on 911 dispatchers' screens.) The PUC also wanted to regulate Vonage because it offers less protection to consumers on service disconnection and billing disputes than state rules provide and because Vonage had an unfair competitive advantage because its rates could reflect the fact that it incurs no regulatory expenses.

Despite calling itself a "broadband telephone company," Vonage says it's not a phone company because it transmits data over the Internet, not traditional voice traffic, and that state rules interfere with Congress' desire to keep the Internet free of restrictions so it could develop.

### What Is VoIP?

The technology has existed since the mid-'90s, but VoIP only became viable with the recent growth of high-speed cable and DSL. Internet and the development of an adapter that makes using VoIP easier. A caller must have high-speed Internet service to use VoIP. Businesses are the biggest users of VoIP so far because it's cheaper and increases productivity and efficiency. VoIP can be added in stages, easily merges with other data services and its phone numbers are easily portable to any location. VoIP phones can also be programmed to redirect calls to other numbers, to take messages at certain times and to give certain callers different messages. The phones can also respond to calls with text messages or e-mails.

VoIP isn't perfect. Phones don't work during power (or Internet) outages because there's no independent power source. VoIP phone numbers can't appear in local directories and callers must dial 1 plus the area code for all calls. Reliability is not yet at the extremely high levels of the public switched network and it's possible that sound quality may suffer when too many people use Internet lines at the same time.

While VoIP still handles a small percentage of all calls made, its share is growing. And with cable

companies and telcos entering the field, VoIP could take off soon, especially with favorable regulations from the FCC. If that happened, other telcos would have a strong incentive to adopt VoIP to avoid regulations – including taxes and fees paid to government – as well as the access fees that help sustain rural telcos and allow them to keep their customers rates affordable.

### **To Regulate or Not to Regulate**

When Vonage asked for relief from state regulations in federal court, it also petitioned the FCC to preempt the PUC's ruling as well as any rulings from other states. Vonage also asked the FCC to find that certain 911 requirements imposed by the PUC were in conflict with federal policies and that preemption from state regulation was necessary because of the impossibility of separating the Internet, or any service offered over it, into intrastate and interstate components.

The FCC has not ruled on Vonage's petition because it recently adopted a Notice for Proposed Rulemaking that will examine how to regulate Internet telecommunications. Results of that effort may be out by the end of the year. The commission will also look at developing rules on technical issues faced by law enforcement in accessing Internet phone calls during legitimate investigations.

In separate rulings, the FCC decided that pulver.com's Free World Dialup service, which only involves calls between the service's users (no calls originate or terminate on the public switched network), is an information service and free of regulations. The commission ruled against AT&T's attempt to evade paying access charges for use of other companies systems to start and end calls. Even though AT&T calls also partly use the Internet, the commission ruled that this use didn't appreciably change their nature.

In a news release on its Internet rulemaking notice, which the FCC adopted Feb. 12, the commission says its proceeding will "examine opportunities that allow consumers greater choices created by voice services provided over the Internet. It is also designed to provide a measure of regulatory stability to the communications marketplace and to further promote the development of these Internet-based services." The commission release cited VoIP's advantages, including lower costs and more innovative services and features.

The FCC release says its rulemaking notice "recognizes" that Internet services should be subject to "minimal regulation," adding that "mechanisms to implement important social objectives, such as public safety, emergency 911, law enforcement access, consumer protections and disability access, may change as communications migrate to Internet-enabled services." The FCC notice is asking which regulations for these objectives should be extended to which types of Internet voice services, depending upon how the public switched network is used.

In essence the FCC needs to answer these questions:

Is VoIP a telecommunications service subject to the same rules as wireline networks or an information system not subject to those rules?  
What access charges should VoIP companies pay for calls where one party is using a traditional or wireless phone?  
What obligations does VoIP have to support universal service?

In its ruling on Free World Dialup, the FCC has shown its likely answer to the first question. FCC Chair Michael Powell, a strong deregulation advocate, has already called for a "light regulatory touch" on VoIP. His allies worry that strong regulation

could stifle this emerging industry, pushing companies to move overseas.

### **Big Implications**

The implications of VoIP are huge for everyone. The FCC's decision on Free World Dialup has a small effect now because the service has few users. But imagine the effect if – or when – Microsoft or another large company offers computer-to-computer voice services. If VoIP companies do not have to pay access charges or support universal service, for example, how will small, largely rural telcos maintain their networks and equipment? How will the companies, with enormous network investments that can't just be written off, keep rates affordable for their customers, a policy of basic fairness that's been enshrined in federal law for decades? How will rural economics stay competitive if local phone companies can't afford to add the latest in technology? And how will some rural customers even be able to keep something we see as essential to a decent life – basic dial-tone service?

By the end of this year, a million consumers may have phone service through a VoIP provider. Some say that half of all calls may be off the public switched network by 2010. Even if that happens further into the future, it's important that good decisions be made now so that everyone has access to affordable service and the latest technology – and a fair chance to compete in the increasingly global economy.

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Minnesota Telecom Alliance is a not-for-profit professional association representing more than 100 small, medium and large telecommunication companies providing voice, data, wireless, and high-speed broadband services to Minnesota's metropolitan and rural communities. More information about MTA can be found on the Internet at [www.mnta.org](http://www.mnta.org).