



April 24, 2015

Vietnam Telecommunications Authority
3th Floor, Dolphin Plaza,
No. 28 Tran Binh, My Dinh Ward,
Tu Liem District,
Ha Noi

Dear Sir/Madam,

We would like to express our gratitude to the Vietnam Telecommunications Authority (**"VNTA"**) for its willingness to engage with industry regarding the pending draft circular *"On Managing the Provision and Use of Internet-based Voice and Text Services"* (hereafter, the "OTT circular").

As you know, millions of Vietnamese people use OTT (internet-based) voice and text communication apps on a constant basis for convenience and to stay in touch with one another. In fact, the usefulness of OTT applications such as these have convinced millions of Vietnamese consumers to pay more for 3G/4G data plans from Vietnam's telecommunications providers. The benefits of OTT apps for consumers are beyond debate and this was underscored by a recent study (see below). OTT developers and providers can also benefit materially from their products: in-app advertising; and acquisition (by a larger company, for instance) are two common examples.

The advent and proliferation of these applications has been a significant boon to the lives of Vietnamese people, contributing to an era of improved communication and convenience. According to a recent study by the Boston Consulting Group, more than 102 billion apps were downloaded by users worldwide in 2013. 90% of these apps were free to download. The dynamic app ecosystem, powered by the mobile internet, is directly contributing to a significant consumer surplus of about \$4,000 per capita per year.¹

As noted above, the vast majority of apps are free. More than half of the apps that *are* paid earn less than 500\$ per month for the companies or individual(s) that developed them.² While mobile apps have transformed people's everyday lives, app developers themselves are still experimenting with business models. Revenue is not always top of mind for developers. A common developer strategy is to focus first on growing an app's number of daily- or monthly-active users (DAU or MAU, respectively) and thereby attract the attention of a potential acquirer. This means that there may be no revenue to speak of for many of the world's most commonly downloaded and used mobile apps.

¹ "The Growth of the Mobile Internet Economy", Boston Consulting Group, 20 February 2015, available at: <http://on.bcg.com/1OCTj3L>, accessed on 15 April 2015, Chapter 3

² "The Growth of the Mobile Internet Economy", Boston Consulting Group, 20 February 2015, available at: <http://on.bcg.com/1K719r>, accessed on 15 April 2015, Chapter 1

Also, user preferences change rapidly: Snapchat, a free instant-messaging app founded in 2011, now reportedly has 200 million users.³ The once-popular app “Draw Something” became the #1 app in 79 countries within 4 weeks of its launch.⁴ Less than 3 years later, it has all but disappeared from users’ smart phones.

In sum, the OTT app market is dynamic, vast, and complex. It has flourished and matured in the absence of overly restrictive or burdensome regulations, and has greatly improved people’s lives in Vietnam and around the world. Every day, talented developers in Vietnam and in dozens of other countries create apps that solve real-world problems in ways that regulations could never predict.

With these points in mind, we respectfully request that VNTA consider our below suggestions regarding the direction of potential regulations on Internet-based services.

- We recommend that any regulation on the OTT app ecosystem be carefully tailored based on international best practices. We are pleased to provide you with examples of approaches that other countries’ regulators have taken to the topic of OTT regulation. These approaches have been implemented without disrupting the app ecosystem and the benefits that consumers and developers derive from the ecosystem.
- From our research and experiences, we have found that reasonable regulatory regimes ***make a distinction between services that are interconnected with the public switched telephone network (PSTN) and those that are not.***
- ***Services that are interconnected with the PSTN may incur telco-like obligations, while non-interconnected services (i.e., “pure” 3G/4G-based interactions) should not incur telco-like obligations.***
 - We find this to be a rational distinction because it conforms to user expectations about telephone services versus Internet apps, and sufficiently protects regulated telecommunications companies against direct competition from lightly regulated OTT voice and text providers.
- Hence, we propose that the Circular should regulate and guide the provision and use of Internet-based voice services that consist wholly of a service that enables real-time two-way voice communications and permits users to generally receive calls that originate on the PSTN and to terminate calls to the PSTN in Vietnam.
- In the U.S., the degree of regulation turns on interconnection to the PSTN and these are the measures of substitutability for telco voice services, both from a consumer perspective and from

³ “Snapchat Is a Lot Bigger than People Realize It...”, Alyson Shontell, *Business Insider*, available at: <http://bit.ly/1CleqFN>, accessed on 15 April 2015

⁴ “Draw Something Historical Timeline...”, Steve Poland, available at: <http://bit.ly/1EDleIx>, accessed on 15 April 2015

the telco perspective. In addition to the federal regulatory scheme administered by the Federal Communications Commission, about half of the U.S. states have enacted legislation that affirmatively forbids regulation of IP-enabled voice services. Text messaging is also very lightly regulated. Recently, the FCC regulated PSTN-interconnected text messaging services with respect to reaching emergency services, and that was the first service regulation. Similarly, in Europe, a critical distinction is the use of phone numbers.

- Within ASEAN, in Singapore, the Infocomm Development Authority (IDA) adopts a similar approach as detailed in their Explanatory Memo on the Policy Framework for IP Telephony and Electronic Numbering⁵ where VOIP services are not dealt with as telco services unless the service provider interconnects with the PSTN (see “Enclosure”). Relevant extracts from the IDA’s memo explain as follows:

“Under the proposed framework, an IP Telephony service provider can commercially decide to set up a “close-user” network and not request for interconnection with existing telecommunication networks. However, if the IP Telephony service provider chooses to interconnect with existing telecommunication networks, such as the PSTN or mobile networks, the existing FBO and SBO licensees must observe the interconnection requirements stipulated under the Telecom Competition Code to allow interconnection.

IDA recognizes that IP Telephony is a new and evolving technology, therefore, consistent with IDA’s policy objectives and approach, IDA will not dictate the specific interconnection configurations that must be adopted at this stage. IP Telephony service providers are free to commercially negotiate and pursue the most appropriate interconnection arrangements with the Dominant Licensee and/or other service providers.”

In line with treating IP services differently, IDA also does not impose any quality of service requirements, requirements to enable emergency calls and number portability requirements on IP services, which are typically associated with telco services.

- Therefore, we would respectfully suggest the scope of the OTT Circular be revised along the following lines: **“The Circular regulates and guides the provision and use of Internet-based voice services that consist wholly of a service that enables real-time two-way voice communications and permits users to generally receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network in Vietnam.”**

⁵ “Explanatory Memorandum Issued by Infocomm Development Authority of Singapore On the Policy Framework for IP Telephony and Electronic Numbering in Singapore”, available at: http://www.ida.gov.sg/~media/Files/PCDG/Consultations/20040921_PropoIPTelephony/EXPLANATORY_MEMORANDUM-VOIP-130605.pdf, 14 June 2005, accessed on 15 April 2015

The member companies of the Asia Internet Coalition (AIC) remain at your disposal to discuss the matters above in more detail.

Kind regards,

A handwritten signature in black ink, appearing to read 'H. Vriens', with a long, sweeping horizontal stroke at the end.

Hans Vriens
Secretariat
Asia Internet Coalition