

VOICE-OVER-INTERNET PROTOCOL FREEDOM ACT - ENACTMENT

Act of Jul. 4, 2008, P.L. 627, No. 52

Cl. 66

AN ACT

Prohibiting the regulation of voice-over-Internet protocol and other Internet protocol-enabled products and services; and providing for preservation of consumer protection, for fees and rates and for preservation of cable franchise authority.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Voice-Over-Internet Protocol Freedom Act.

Section 2. Legislative findings.

The General Assembly finds and declares as follows:

(1) Growth and enhancement of services using Internet protocol technology provide Pennsylvania consumers more choice in voice, data and video service than at any other time.

(2) The proliferation of new technologies and applications and a growing number of providers developing and offering innovative services using Internet protocol is due in large part to little regulation, including freedom from regulations governing traditional telephone service, that these new technologies and the companies that offer them have enjoyed in this Commonwealth. The economic benefits, including consumer choice, new jobs and significant capital investment, will be jeopardized and competition minimized by the imposition of traditional State entry and rate regulation on voice-over-Internet protocol and Internet protocol-enabled services.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"IP." Internet protocol.

"Internet protocol-enabled service" or "IP-enabled service." Except as provided in the definition herein of "Voice-over-Internet protocol service," a service, capability, functionality or application provided using Internet protocol or any successor protocol that enables an end user to send or receive a communication in Internet protocol format or any successor format, regardless of whether the communication is voice, data or video.

"Voice-over-Internet protocol service" or "VoIP service." A service that:

(1) enables real-time, two-way voice communications that originate or terminate from the user's location in Internet protocol or any successor protocol;

(2) uses a broadband connection from the user's location; and

(3) permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

Section 4. Prohibition on IP services regulation.

Except as set forth in sections 5 and 6, notwithstanding any other provision of law, no department, agency, commission or political subdivision of the Commonwealth may enact or enforce, either directly or indirectly, any law, rule, regulation, standard, order or other provision having the force or effect of law that regulates, or has the effect of regulating, the rates, terms and conditions of VoIP service or IP-enabled service.

Section 5. Preservation of consumer protection.

Nothing in this act shall be construed to affect the Office of Attorney General's application or enforcement of laws or regulations that apply generally to consumer protection or unfair or deceptive trade practices.

Section 6. Powers and duties retained.

Nothing in this act shall be construed to modify any of the following:

(1) The authority of a Commonwealth department, agency or commission to enforce applicable Federal or State statutes or regulations relating to any of the following:

(i) The provision and administration of enhanced 911 service and nondiscriminatory enhanced 911 fees.

(ii) Telecommunications relay service fees.

(iii) Universal service fund fees.

(iv) Switched network access rates or other intercarrier compensation rates for interexchange services provided by a local exchange telecommunications company.

(v) Rates, terms or conditions of protected services provided under tariffs which are subject to approval by the Pennsylvania Public Utility Commission.

(2) The authority of the Commonwealth or a political subdivision to require a cable operator to obtain a franchise agreement to provide cable service within a political subdivision under section 621(b)(1) of the Communications Act of 1934 (48 Stat. 1064, 47 U.S.C. § 541(b)(1)).

Section 30. Effective date.

This act shall take effect immediately.