

Quarterly Industry News

Volume 3: Issue 2

MESSAGE FROM THE CEO

A GUIDE TO MANAGING REGULATORY AND TAXATION REQUIREMENTS FOR ENTERPRISE AND RETAIL VOIP SERVICE PROVIDERS

In order to comply fully with the law, there are numerous regulations, taxes and fees that every Enterprise or Retail VoIP Service Provider is required to file, report or disburse—regardless of city, state, province or country of presence. It takes a regulatory attorney, or other expert in the field, to navigate the intricacies and, more important, limit your liability. When it comes to regulatory and tax issues, there are not many shortcuts. Hiring good counsel is the best and most prudent investment. With that disclaimer, I am hoping to provide the questions you should be prepared to answer as you navigate regulatory bureaucracy. In addition, I have linked to some online resources to help you get a handle on this arduous task.

One very important question to determine upfront is where you will offer services. The more jurisdictions in which you offer services (with normal increments being country, state or province or large city), the greater the number of agencies that will require certifications, taxes and fees. And, as you may have guessed, more agencies means more expense incurred meeting those requirements. For an introductory launch or an abbreviated marketing campaign, I always recommend choosing a limited geographic area to keep regulatory costs down.

Once you know where you will operate, there are a number of good questions to steer your investigation, registration and compliance with regulatory bodies and those allowed to collect taxes and fees. Here are several considerations that can streamline the process:

Regulations

1. Start with the national regulating body for telecommunications—in the US it is the FCC, OfCom in the UK, ARCEP in France, etc. A thorough list with website links is on [Wikipedia](#) and another on [Cellular-news.com](#). There is excellent [info](#) on the ITU site discussing national regulators, as well.
2. Determine the one or more licenses you will need upfront. For example, in the US, if you intend to sell international calls, you need a Section 214 certificate in addition to other licenses (iVoIP, etc.). Once you have the list of what you need, you can generally [find online resources](#) with guidelines, samples, etc.
3. Check with the national regulator about sub-regulators such as state public utility commissions, provincial governments, local jurisdictions, etc. Generally, looking at invoices from a few of the largest operators in the jurisdiction(s) you will serve is helpful. Any regulatory body that is sub-national will usually appear as a tax or fee on the invoice.

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Taxes and Fees

4. Ask for advice from any and all people you know who have dealt with tax calculations in your jurisdictions. The first thing to determine is if it is possible to calculate taxation information without proprietary data from a specialist company. In the US, you need CCH, BillSoft or another because of tax rate and fee complexity and variability.
5. How you present your Enterprise or Retail VoIP service can affect how you have to calculate taxes. For instance, some operators bundle minutes of usage with features and functions – these are taxed differently. It can be worth a few hours of consultation with an attorney simply to frame your offering correctly.
6. The classification of communications services has become very complex. Spend some time researching or speaking with an expert on how, operationally, the service works to determine how it should be classified. Like the question above, a little bit of forethought into exactly how you operate your service can change tax and fee requirements. In the [Voice from the Industry](#) section in this Newsletter, Jonathan Marshlian discusses how SIP service classification has added another layer of debate about taxation based on operational specifications.
7. Determine if you will need assistance in remission of taxes and fees to the correct authorities. Wherever this is complex enough to require assistance, there are companies that will process and pay on your behalf for a fee.

If I have one goal in writing this article, it is to underscore how challenging it can be to be in full compliance with all regulatory bodies, tax calculations, fee calculations and correct remission of relevant funds as a VoIP Enterprise or VoIP Retail service provider. Like anything, there are more efficient ways to clear these hurdles. Hopefully, thinking about the questions and considerations above will assist your thinking on the matter. If you have a rule of thumb or a suggestion that you want to share please feel free to submit your comment to micah@voiplogic.com.

Micah Singer, CEO

Customer Corner

A Conversation with CEO and Owner Ragheb El-Sergani of SygmaTel

SygmaTel is a Telecommunications company focused on providing international and domestic Voice and Data services, technologies, and platforms.

Who is SygmaTel and can you tell me about your offering?

SygmaTel is a leading wholesale carrier in the Middle East region, based in London, Dubai and Cairo, carrying millions of minutes on monthly basis to multiple destinations. We specialize in Arab countries' termination traffic but also attempt to offer very competitive rates to the rest of the world.

Please explain how the business is unique (i.e., your market differentiation). Our readers always enjoy any "out-of-the-box" nuggets about your Company that you'd care to share.

Founded in 2003, SygmaTel started as a small company aiding in a special bypass recovery program to help recover illegal bypass traffic in the Middle East and re-routing the call traffic through the official local operator. By 2011, this business had expanded to include many other countries in Africa, Asia and North America—through direct business relationships and associate companies.

One of the things we take pride in is that we do not route traffic through bypass/grey networks, nor do we promote them in anyway. We believe quality is more important than short-term profit.

In addition to wholesale, SygmaTel is an international retail carrier. This is achieved, maintained and directed under a sister company called SygmaFone, and through our own custom built SIP phone, SygmaFone, which is available on all mobile platforms, as well as PC, Mac and Linux. We create our software, we do the interconnections, and we maintain our routes.

What makes SygmaTel truly unique is the vertical integration of the company from application development team to billing software to SIP phone to VoIP peering network.

Can you prognosticate about the future and/or describe any current and key industry trends to which you are responding.

We believe the future of telephony is going to be over IP. It's inevitable and it is happening, though more slowly in some parts of the world. Whether you are at home, at your office, or even on the move, you're bound to use voice communication over IP. As a leading carrier, SygmaTel is taking proactive steps toward answering this call, through the deployment of next generation network architecture, our SygmaFone service and by teaming up with strategic partners. These are all important steps to keep pace with future communications industry trends.

How has VoIP Logic been of service to SygmaTel?

We started working with VoIP Logic in early 2009, and from the start, the company has been excellent partner. Their support (technical and otherwise) and understanding of customer need have been exemplary.

Since we started working together, our business has grown from originally renting a single switch to including multiple geographic high availability switches and retail servers.

Any other insights you'd like to share with our audience?

When SygmaTel originally started, we had one employee! Eight years later, SygmaTel now boasts a team of 15 employees, five of which form the NOC, the backbone structure of the whole company. We are very proud of our team of workers; they're hard working, honest and best of all, dedicated to the success and welfare of the company.

SygmaTel

VoIP Regulatory Issues

ANDREW ISAR, PRESIDENT OF MILLER ISAR, INC.

FCC Mulls Expanding VoIP E911 Requirements

On July 13, 2011, the Federal Communications Commission released a [Notice of Proposed Rulemaking, Third Report and Order and Second Further Notice of Proposed Rulemaking](#), which, most notably, would expand E911 Requirements for Internet-Protocol enabled service providers.

The Commission's intent is to enhance the public's ability to contact emergency services and obtain accurate information regarding caller location specifically for interconnected VoIP service users.

The Commission requested comment on whether a framework for ensuring that all covered VoIP service providers can provide automatic location information (ALI) for interconnected VoIP 911 calls should be developed. Additionally, the Commission:

- **asked** whether it should support 911 location determination through leveraging of location technologies that are already being developed for commercial broadband applications;
- **questioned** the possibility of developing operational benchmarks based on location accuracy performance to enhance consumer decision-making with respect to device capabilities;
- **questioned** technological approaches to improve location accuracy for 911 communications originating from indoor environments; and,
- **questioned** whether the Commission's proposal to amend the definition of interconnected VoIP service for 911 purposes in Section 9.3 of the Commission's rules will have any impact on the interpretation of certain statutes that reference the Commission's existing definition of interconnected VoIP service.

The Commission is also seeking comment on whether it should apply existing 911 rules to "outbound-only" interconnected VoIP services, which allow users to place outbound telephone calls but not to receive inbound telephone calls. And the Commission asked for ways it might ensure that all interconnected VoIP providers can provide automatic location information for VoIP 911 calls, rather than relying on the subscriber to register location with the VoIP provider.

It is clear that E911 obligations for VoIP providers operating in the United States will grow and change under any final rules adopted through this process.

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Founded in 1991, Miller Isar, Inc. concentrates on the telecommunications industry. Headquartered near Seattle, WA, with offices in Philadelphia, PA, Miller Isar focuses its practice on Regulatory Compliance, Public Policy, and Business Practices, as they relate to Regulatory obligations.

www.millerisar.com

Industry News and Trends

Mobile is remaking entire industries, study says

A new survey highlights five of the top tech trends of 2011, and mobile is at the forefront.

<http://www.zdnet.com/blog/btl/mobile-is-remaking-entire-industries-study-says/55181>

comScore Reports July 2011 U.S. Mobile Subscriber Market Share More than 80 Million Americans Now Own Smartphones

http://www.comscore.com/Press_Events/Press_Releases/2011/8/comScore_Reports_July_2011_U.S._Mobile_Subscriber_Market_Share

28% of American adults use mobile and social location-based services

<http://pewinternet.org/Reports/2011/Location.aspx>

How HTML5 may become the standard for apps (Inside Apps)

http://news.cnet.com/8301-1035_3-20104056-94/how-html5-may-become-the-standard-for-apps-inside-apps/#ixzzIXkCo2nVs

VoIP in Korea Passes 10 Million Subscriber Mark...Nearly 30% of the telephone Market.

<http://www.telegeography.com/products/commsupdate/articles/2011/07/05/voip-passes-10m-subscriber-mark/>

FCC Chairman Genachowski Announces Five Step Action Plan to Improve the Deployment of Next Generation 9-1-1 (NG911)

911 official plans to add SMS, photos/video, & location. PDF

<http://bit.ly/oBWdMR>

Next Generation 9-1-1 Analysis

From US Research and Innovative Technology Administration

<http://www.its.dot.gov/ng911/>

How pricing dynamics affect mobile usage

<https://www.wirelessintelligence.com/analysis/2011/09/how-pricing-dynamics-affect-mobile-usage/>

Google to buy Motorola Mobility for \$12.5B

http://www.fierceterprisecommunications.com/story/google-buys-motorola-mobility-125-billion/2011-08-15?utm_medium=nl&utm_source=internal

Industry News and Trends

Plantronics Savi W740-M Convertible Wireless Headset

http://reviews.cnet.com/headsets/plantronics-savi-w740-m/4505-13831_7-34854395.html

Desktop VoIP phone for iPhone and iPad hands-on

<http://www.engadget.com/2011/09/01/invoxia-nvx-610-desktop-voip-phone-for-iphone-and-ipad-hands-on/>

Sprint files suit against AT&T/T-Mo merger

<http://www.telecoms.com/32572/sprint-files-own-suit-against-att/>

Prepping the Light Fantastic: When US carrier LightSquared's LTE network goes live, it will represent the biggest shake-up of the US wireless operator market since the break-up of AT&T.

<http://www.telecoms.com/32076/prepping-the-light-fantastic/>

Global mobile connections to surpass 6 billion by year-end. 1b connections in just 16 months:

<https://www.wirelessintelligence.com/analysis/2011/09/global-mobile-connections-to-surpass-6-billion-by-year-end/>

Cisco report on Mobile telephony: Mobile Consumers Reach for the Clouds

http://www.cisco.com/en/US/solutions/collateral/ns341/ns525/ns537/ns705/ns827/white_paper_c11-481360_ns827_Networking_Solutions_White_Paper.html

Forrester Report Shows Increased Adoption of VoIP and UC by SMBs

<http://www.telephonyworld.com/news/forrester-report-shows-increased-adoption-of-voip-and-uc-by-smb/>

Android Pushes Smartphones Sales Past Feature Phones for First Time

<http://www.cellular-news.com/story/50828.php?s=h>

Video Conferencing Goes Mobile---Maybe

<http://andyabramson.blogs.com/voipwatch/2011/09/video-conferencing-goes-mobile-maybe.html>

The apps that feed our mobile communication addiction

<http://gigaom.com/collaboration/the-apps-that-feed-our-mobile-communication-addiction/>

Android as Your Desk Phone

<http://www.telephonyourway.com/2011/09/03/android-as-your-desk-phone/>

Voice from the Industry

DO TAXES REALLY MATTER? NAVIGATING REGULATORY CONSIDERATIONS ASSOCIATED WITH THE TRANSITION TO VOIP, SIP AND BEYOND

Jonathan S. Marashlian Helein & Marashlian, LLC

There is a widely held perception in the communications industry that SIP-based communications services are immune from federal and state regulation and communications taxes. The situation is reminiscent of just a few years ago when the industry had convinced itself that interconnected Voice over IP ("VoIP") services were likewise protected from government regulation and the fees and taxes that typically accompany regulated status.

In its seminal 2004 Vonage Preemption Order, the Federal Communications Commission (FCC) led the way in classifying VoIP for regulatory purposes, simultaneously clarifying state taxing authority over such services. State legislatures and tax authorities acted upon the FCC's signal, and in the years since the *Vonage Preemption Order*, state tax treatment of VoIP services has become nearly indistinguishable from the taxation of traditional communications services.

Nowadays, it almost goes without question that VoIP service is subject to state communications taxation. In addition, following the FCC's recent determination that states can assess state universal service fund (USF) contribution obligations on intrastate VoIP revenue, states are beginning to impose greater regulatory obligations on VoIP and IP-based services.

Due to the rapid evolution of Internet-based communications technology, the industry has witnessed the emergence of other forms of Internet-based communications since the Vonage Preemption Order, including SIP-based services. SIP, which stands for Session Initiation Protocol, is utilized in the establishment, modification and termination of telephony, multi-media conferencing, instant messaging and other types of real-time communication over Internet Protocol- ("IP") based networks. SIP-based services operate in essentially the same manner as VoIP. State tax statutes tend to broadly define "VoIP" or "IP-based" services in a way that encompasses SIP technologies. Thus, for state tax purposes, SIP technologies are treated in virtually the same manner as IP-based services.

However, for federal regulatory purposes, the treatment of SIP-based services is less clear because the FCC regulates only "interconnected VoIP" and defines it narrowly. Even less clear is whether the FCC or the administrator of the Universal Service Fund, USAC, would tap SIP for the limited purpose of USF contributions by relying on the broad, catch-all definition of "telecommunications" set forth in the Communications Act. The FCC has yet to directly address this question. Moreover, the Commission is considering revisions to the current definition of interconnected VoIP including those discussed elsewhere in this Newsletter, which may impact more than just the regulatory treatment of VoIP services, but other IP-based services as well, including SIP.

Today, there is the same degree of uncertainty within the industry as to the regulatory and tax treatment of SIP-based services as existed in the VoIP industry years ago. It appears that many larger providers understand or acknowledge that SIP, while a unique protocol, is by and large synonymous with VoIP and they are treating it as such for both tax and regulatory purposes. A majority of SIP providers, on the other hand, are either blithely unaware or legitimately convinced that SIP is unique and therefore immune from the regulations and taxes that have befallen VoIP.

While there remains room to argue that current laws governing the regulation and taxation of telecommunications or VoIP do not apply to SIP, in particular under the FCC's regulatory regime, the industry should take the history of VoIP regulation as its guide. VoIP providers that were the last to accept that their services were regulated and taxable as telecommunications may have incurred greater costs than their more prescient competitors. Because most taxes and regulatory fees may be passed through to customers, it may be better in the long run for providers to remit these items now and pass the cost on to its customers than to take the position that SIP is subject to different treatment than VoIP and find the company subject to taxes without the ability to recover costs months, even years down the road.

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VoIP Logic: News & Notes

CONFERENCES

VoIP Logic will be attending the following trade events:

October 2 - 5, 2011

Comptel

Orlando, FL

<http://www.comptel.org/>

October 9 - 13, 2011

Gitex 2011

Dubai, UAE

<http://www.gitex.com/page.cfm/Link=1/t=m/goSection=1>

October 16 - 19, 2011

BroadSoft Connections

Phoenix, AZ

<http://broadsoftconnections.com/>

January 15 – 18, 2012

PTC

Honolulu, HI

<http://www.ptc.org/ptc12/>

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