

Dear Sirs,

we gladly welcome this opportunity to voice our appreciation for addressing pressing issues and concerns as a network independent VoIP service provider. The enclosed response has been jointly created by Netzquadrat GmbH and Indigo Networks GmbH. Both businesses work closely together to develop and provide innovative VoIP services to consumers.

Best regards,

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(Geschäftsführer)

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## Overview

Netzquadrat GmbH has been providing IP based services since 1998. Its mobile communication service "sms.de" has since attracted more than 2.5 million consumers. In the last seven years Netzquadrat has gained significant expertise in both administration and mass-provision of electronic communication services. In order to deliver the best user experience Netzquadrat operates its own IP backbone stretching over more than 5,000 km.

Indigo Networks GmbH has been offering telecommunication services in Austria, Germany and the UK since 2001. Among the products offered have been narrowband internet access and voice conferencing solutions. In January 2004 Indigo Networks GmbH went live with its first VoIP offering at [www.sipgate.de](http://www.sipgate.de) and has since expanded its market coverage to Austria and the UK. In March 2005 Indigo Networks' customer base had already exceeded 100,000.

Both companies are privately held and not affiliated, while sharing their management teams and some staff. We continuously publish our views on economic and regulatory issues as they arise at [www.voipmatters.net](http://www.voipmatters.net).

## Description of Indigo Networks' VoIP offerings

Indigo Networks offers its services at [www.sipgate.co.uk](http://www.sipgate.co.uk) for the British and [www.sipgate.de](http://www.sipgate.de) and [www.sipgate.at](http://www.sipgate.at) for the German and Austrian markets respectively. Sipgate has been designed to replace a traditional landline service. Indigo Networks has chosen to provide its VoIP services independent of broadband access services and relies on the consumers choice of a 3rd party supplier. In order to foster a growing market of consumer VoIP devices Indigo Networks has also chosen to not force specific devices, but also leave the choice up to the consumer.

## Summary

We recognize most issues RTR has raised in this consultation as being key issues. Aside from the issues raised we wish to bring two more issues to your kind attention; namely, number portability and product bundling strategies by players with significant market presence (SMP). We hereby lay out our positions towards all issues in the order of importance:

## Geographic Numbering Resources

We recognize the importance of governing the integrity of the numbering plan to the benefit of all consumers by ensuring availability and unbiased access for all market participants to foster competition. We further understand that RTR has identified access to geographic numbering resources as being of utmost importance for the commercial success of service offerings; a view not only shared by Netzquadrat GmbH and Indigo Networks GmbH, but the European Commission and virtually all relevant players in the European voice market.

Considering the importance of geographic numbers for stationary services (those provided at a fixed location) we take issue with RTR's regulatory strategy regarding geographic numbers.

VoIP services aiming to replace existing land lines do heavily rely on a user experience as close as possible to the services they replace. We understand RTR shares this view as it urges service providers to deliver quality access to emergency services to „meet the users' expectations“ which are clearly to subscribe to a service as equivalent to traditional landline services as technically feasible. This goal naturally includes the accessibility of these services through geographic numbers. Notwithstanding regulatory restrictions, number portability is significantly undermined by the design of Telekom Austria's product bundles and the absence of 'Naked DSL' which you find discussed in a separate paragraph.

We understand RTR strives to provide access to numbering resources in a technology-neutral fashion. Today's state of technology allows the separation of access to networks and services; a development which has greatly contributed to the widespread use of other communication services such as email and IM. In contrast to this development does today's revision of KEM-V require a service provider to deliver network access (a „physical network endpoint“). This restriction which cannot possibly be considered „technology-neutral“.

Alternatives mandated by RTR such as assigning numbers from the 0720 or 0780 are not a suitable alternative for a number of reasons:

1.) Those numbers incur higher costs for the calling party

Taking into account that about 80% of all calls within fixed networks are local and 75% of residential calls are placed off-peak we really need to compare TA's 1,35 ct per minute for geographic to 2,6 ct for 0720 numbers. We concur any perception of this 92% surcharge being "marginal".

2.) Those numbers may not be accessible from all Austrian networks

While regulations to route those numbers ranges are in place they are not routed from day one and enforcing such obligations posed significant market entry barriers. In particular smaller service providers experience disadvantages as enforcing routing obligations can be a costly and time consuming venture.

3.) Those numbers are almost never accessible from outside of Austria

While such routing issues should not arise in theory competitive markets have tributed to very sophisticated routing tables in wholesale switches. Experiments with German long distance service providers have shown that a majority of cost-effective long distance services not routing +43 720. Injecting new routes into an unknown number of international switches operated by unidentified and unidentifiable market players poses a tremendous task.

4.) Those numbers bear the psychological disadvantage of "feeling non-local" to the calling party.

Most Austrian consumers associate a geographic region outside their own when dialing 0720 numbers. Naturally, this leads to a severe marketing disadvantage for those providing 0720 numbers as „users' expectations“ clearly include a local geographic phone number.

## Number portability

It is our understanding that Austrian lawmakers have mandated number portability to foster competition and broaden consumers' choice. TKG § 23.(1) reads:

„Betreiber öffentlicher Telefondienste haben sicherzustellen, dass ihren Teilnehmern die Möglichkeit des Wechsels des Telefondiensteanbieters unter Beibehaltung der Rufnummern [...] eingeräumt wird.“

(non-binding translation: „Operators of publicly available telephone services shall ensure that their subscribers may change the provider of telephone service, retaining their numbers [...].“)

Today's KEM-V limits this right granted to a consumer by placing the obligation to provide a „physical network endpoint“ onto a service provider. Such requirement does not reflect the current state of technology and severely limits consumers' choice of service as solely the consumers' network access providers may provide a service using the consumers' existing number. At this time network-independent service providers therefore need to require their subscribers to renumber despite the lawmakers clear intention to empower the consumers to change their service while retaining their number.

On a related issue is the current number portability implementation biased towards those players who have received the original number allocation from RTR as competing service providers are obliged to recover costs for onward routing to the consumers new service. However, a level playing field requires equal interconnection costs for all numbers no matter of who has received the original allocation.

VoIP is widely regarded as a disruptive technology and most observers agree that a significant portion of today's landline subscribers will eventually switch to a VoIP based service. Such a switch is likely to increase the importance of number portability as a significant part of all consumers will switch their service providers at the same time. We understand that the implementation of a number portability mechanism is a major undertaking. Until a final solution becomes available a level playing field requires all service providers to share costs for onward routing. In particular do we feel RTR needs to introduce cost sharing for onward routing (i.e. onward routing from SMP players provided at half cost). Furthermore, should RTR consider to place all onward routing costs onto SMP players as such an obligations is likely to speed up the development process of a number portability solution.

## Anti-competitive product bundling strategies by SMP players

Owing to the severe anti-competitive nature of Telekom Austria's strategy of tying land line and DSL access we identified an urgent need to further look into the affects of these product bundles.

The effect on today's market is twofold: Not only does TA's product bundling strategy make their competitors product less attractive from an economic point of view - it significantly undermines the intention of number portability requirements and thereby severely limits the consumers choice of service.

- VoIP is no economically viable alternative for TA's land line service

Given TA's market share in the broadband market the absence of 'Naked DSL' directly affects a large number of consumers. While we do recognise TA's need to cover copper costs, we dispute any need to recover those through a land line offering.

Sipgate strives to provide its free VoIP service of third party access networks. No sign-up fees, monthly minimums or any other fees are charged to a subscriber for receiving calls from anywhere or placing on-net calls.

Even though the service itself is entirely free of charge it does not pose an economically viable alternative to TA's broadband customers. As long as TA is force feeding voice services to the consumer, let it be POTS or VoIP services, TA is effectively starving competition on the broadband lines. For the sake of a competitive market we believe these bundles require a thorough scrutiny.

- Today's voice and DSL bundles undermine number portability

Notwithstanding the clear intention to empower the consumer in his choice of service through the introduction of number portability, this choice is not available today. As a number may only be ported once a consumer cancels his existing service today's voice and DSL bundles undermine this choice.

This strategy has a dramatic impact on the market. Beside the economic consideration discussed above even consumers who wish to change their voice service for features are effectively hindered in doing so as long as they wish to keep their number.

We believe the issues requires immediate attention by RTR.

## **Access to Emergency Services**

We fully support RTR's view to require mandatory access to emergency services as such access is clearly expected by the consumer.

We wish to point that access to routing to emergency dispatchers is a prerequisite for VoIP service providers in order to provide a meaningful service. Such routing is ideally provided through SMP players' regulated interconnection offering.