



Review of the Broadband Speed Claims- Industry Guidance

Submission by the Australian Communications Consumer Action
Network to the Australian Competition and Consumer Commission

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About ACCAN

The Australian Communications Consumer Action Network (ACCAN) is the peak body that represents all consumers on communications issues including telecommunications, broadband and emerging new services. ACCAN provides a strong unified voice to industry and government as consumers work towards availability, accessibility and affordability of communications services for all Australians.

Consumers need ACCAN to promote better consumer protection outcomes ensuring speedy responses to complaints and issues. ACCAN aims to empower consumers so that they are well informed and can make good choices about products and services. As a peak body, ACCAN will represent the views of its broad and diverse membership base to policy makers, government and industry to get better outcomes for all communications consumers.

Contact

Isabel Durie
Policy Officer

PO Box 639,
Broadway NSW, 2007
Email: info@accan.org.au
Phone: (02) 9288 4000
Fax: (02) 9288 4019
Contact us through the [National Relay Service](#)

1. Introduction

ACCAN thanks the ACCC for the opportunity to provide feedback to the review of the Broadband Speed Claims- Industry Guidance, and welcomes the proposals for improvements put forward. Technical information about broadband speeds and variation between busy and off-peak periods can be difficult to understand for consumers who are mostly unfamiliar with the technical side of broadband service delivery and the many factors that can impact broadband speeds. The rollout of the National Broadband Network (NBN) has further exacerbated this complexity and information asymmetries with the introduction of new service offerings in the broadband market requiring consumers to adapt to and learn about different technologies and their attainable speeds.

ACCAN is pleased by the work undertaken by the ACCC to ensure information about broadband speeds is marketed to consumers in a way that is easy to digest, enhances consumer decision-making, and provides greater ability for consumers to seek redress when their service is not performing to the advertised standard. Creating greater consistency across the industry better enables consumers to compare products and providers and therefore promotes competition. We encourage the ACCC to continue its work in this area, in order to address the material information asymmetries that exist and welcome the proposed measures, alongside its broadband performance monitoring, as the rollout of the NBN continues.

It is encouraging that, as noted by the ACCC in its 'Report on effectiveness of broadband speed claims guidance...', complaints to the Telecommunications Industry Ombudsman (TIO) about slow speeds over NBN connections decreased by 7% between the last half of 2017 and the first half of 2018. Whilst there are many factors that are likely to have contributed to this decrease, ACCAN considers that the introduction of the ACCC's speed guidance is both a necessary and welcome development, for consumers and the industry. It is also pleasing that the ACCC has reported widespread uptake of the key principles in the broadband speed claims guidance, with providers representing a vast majority of the market now providing typical busy speed information.

Expanding the guidance to cover fixed wireless

ACCAN strongly supports the ACCC's proposed amendments for improving the guidance and expanding its scope to cover fixed wireless services and considers that these changes will be greatly beneficial to consumers. These changes will promote and enable wider use and provision of busy-period speed information and consistent descriptive labels across the industry and different technologies. The rollout of NBN fixed wireless services has encountered many issues and been a point of significant frustration for consumers using this technology. Issues of cell congestion, variation in speeds, and the inability to reach maximum attainable speeds over fixed wireless have left many consumers with a service that does not have the capacity to meet their internet needs and that has failed to meet their expectations.

Whilst the November Progress Report¹ released by NBN Co demonstrates minor improvements in fixed wireless service performance since June 2018², there is still work to be done. The report also demonstrates that during the month of November 2018, 3.8% of fixed wireless cells were

¹ NBN Co 2018: <https://www2.nbnco.com.au/content/dam/nbnco2/2018/images/how-we-are-tracking/documents/nbn-november-2018-monthly-progress-report.pdf>

² Ibid.: The report demonstrates that between June and November 2018, the percentage of cells with a monthly busy hour cell performance of 6 Mbps or more has increased from 95.1% to 96.2%.

performing at less than 6 Mbps³. ACCAN considers that this is still an unacceptably high level of congestion and that consumers need to be made aware of these issues prior to signing onto a fixed wireless contract. Easy to understand information for consumers is required, prior to signing up for a service, about the potential issues they may encounter, together with warnings after sign up when the consumer's local cells are experiencing congestion.

We also note that NBN Co has just announced a new wholesale product for the fixed wireless market⁴ that will prioritise download speeds. Whilst this may improve the experience of consumers using fixed wireless services, it also further necessitates the need for consumers to receive adequate, up-front information about average attainable speeds. As the NBN market continues to evolve and new products emerge the complexity of the market becomes more pronounced for both consumers and RSPs. The need for guidance for RSPs on providing information to consumers about broadband speeds is thus paramount.

In our submission, we provide responses to the consultation questions that relate to the consumer impacts of the speed guidance.

³ NBN Co 2018: <https://www2.nbnco.com.au/content/dam/nbnco2/2018/images/how-we-are-tracking/documents/nbn-november-2018-monthly-progress-report.pdf>

⁴ NBN Co 2018: <https://www.nbnco.com.au/corporate-information/media-centre/media-statements/nbn-co-unveils-new-plans-for-fixed-wireless-network>

2. Recommendations

Recommendation 1: Consumers must be warned up-front that attainable speeds over fixed wireless can vary greatly and the factors that can impact speeds

Recommendation 2: RSPs should be encouraged to develop fixed wireless specific labels for attainable speeds

Recommendation 3: Labels for fixed wireless should be consistent with those used for fixed line services

Recommendation 4: Warnings about cell congestion provided should be accompanied by information about what activities the congested service will be capable of supporting during the busy period

Recommendation 5: The guidance should include a default methodology for testing maximum attainable speeds on fixed wireless connections

Recommendation 6: Preferable to RSPs providing information to consumers about how to perform their own speed tests, NBN Co should provide assistance to smaller RSPs to allow them to run the speed tests themselves

Recommendation 7: Information provided to consumers about how to do a speed test must be in given in writing, in plain language, and be readily available and accessible

Recommendation 8: RSPs should provide over the phone support for speed testing where requested by a customer

Recommendation 9: The guidance should encourage RSPs to provide fixed wireless specific information when a consumer uses the RSP's website NBN search tool and their address is only able to receive fixed wireless broadband

1. Responses to consultation questions

1.1. Question 3

Should specific labels be developed for plans that are specific to fixed wireless networks, e.g. to better manage consumer expectations when RSPs are marketing fixed wireless specific plans?

As argued in ACCAN's previous submission to the ACCC on the development of the speed guidance,⁵ providers must be required to provide simple and transparent consumer information about broadband speeds. This not only promotes competition in the market, but is essential to empowering consumers to make better-informed purchasing decisions that meet their internet needs. As such, ACCAN is strongly supportive of expanding the speed claims guidance to include specific labels for fixed-wireless networks to inform consumers about the variability in maximum attainable speeds and congestion issues experienced over the service.

Given the extent of poor experiences and resulting consumer concerns over fixed wireless, it is necessary that providers offer information to consumers about the issues with fixed wireless, and factors that can impact its performance.

We consider that it would be greatly beneficial to consumers to develop labels specific to fixed wireless networks. Consumers using fixed-wireless services have experienced significant issues with speeds and service faults due to congestion on towers and in individual cells. The variability in speeds, both generally and between busy and off-peak is far greater than that experienced on fixed-line services, rendering some services unable to meet consumer needs. Providers should be responsible for flagging service issues prior to sale in order to manage consumer expectations and allow consumers to decide if the service is going to meet their needs.

Providing up-front, accurate and transparent information about fixed wireless service performance is beneficial for both consumers and RSPs. The absence of information about congestion and other issues relating to fixed wireless connections results in wasted effort, time and resources by both parties. In the first instance, if a consumer is provided accurate information about congestion and other potential service issues they may experience, they may decide not to purchase the service if it is unlikely it will be able to meet their needs, and an alternative option is available. This saves the RSP time and resources that may be wasted on setting up a connection that is unable to meet the consumer's expectations.

Further to this, if a consumer decides to go ahead with the connection and is provided with information about congestion issues, they are better equipped to identify the root cause of poor service performance where they may otherwise have assumed a fault and unnecessarily made a complaint to the RSP. Similarly, where congestion is not an issue yet the consumer is experiencing poor service performance, they are better placed to identify that it is likely to be a genuine fault and request assistance.

⁵ ACCAN 2016: <http://accan.org.au/Broadband%20Speed%20Claims%20ACCAN%20submission.pdf>, p.6

Recommendation 1: Consumers must be warned up-front that attainable speeds over fixed wireless can vary greatly and the factors that can impact speeds
Recommendation 2: RSPs should be encouraged to develop fixed wireless specific labels for attainable speeds

Labels for fixed wireless should accurately reflect attainable speeds and flag variability and congestion issues as a common occurrence. Any labels for fixed wireless should also be consistent with those used for fixed-line services, regardless of whether they are the labels proposed by the ACCC speed guideline or alternatives developed by individual RSPs. Similarly, any graphics and information provided should also be presented in a consistent format to that used for other broadband services provided by the RSP. Consistency allows consumers to familiarise themselves with common terms and labels used throughout the industry, thereby allowing them to make more informed decisions about their broadband service.

ACCAN notes that some providers such as Telstra are already providing extensive information about fixed-wireless services and possible issues that may be encountered over this technology. We consider that where a provider offers fixed line and fixed wireless services, information about both should be provided side-by-side. The approach taken by Telstra on its website⁶ provides a good example of how consumers can be informed about fixed wireless:

⁶ Telstra 2018: <https://www.telstra.com.au/broadband/plans-bundles>

Essential	Unlimited	Unlimited + Streaming
100 GB DATA	UNLIMITED DATA	UNLIMITED DATA
\$69 per month for 24 months Min cost \$1,755 (inc. \$99 connection charge for new customers)	\$89 per month for 24 months Min cost \$2,235 (inc. \$99 connection charge for new customers)	\$99 per month for 24 months Min cost \$2,475 (inc. \$99 connection charge for new customers)
Bonus Google Home Mini	Bonus Google Home Mini	Telstra TV + 24 mths Foxtel Now + Bonus Google Home Mini
Standard Evening Speed nbn tier 25 20Mbps typical minimum speed. > Find out more about nbn speeds > nbn™ key facts sheet For Fixed Wireless (FW) plans, speeds will be lower > Find out why FW speeds may be lower > nbn™ key facts sheet (FW)	Standard Plus Evening Speed nbn tier 50 40Mbps typical minimum speed. > Find out more about nbn speeds > nbn™ key facts sheet For Fixed Wireless (FW) plans, speeds will be lower > Find out why FW speeds may be lower > nbn™ key facts sheet (FW)	Standard Plus Evening Speed nbn tier 50 40Mbps typical minimum speed. > Find out more about nbn speeds > nbn™ key facts sheet For Fixed Wireless (FW) plans, speeds will be lower > Find out why FW speeds may be lower > nbn™ key facts sheet (FW)

The Telstra website provides click through detailed fixed wireless specific information via the page linked to the up-front warning that ‘speeds will be lower’. This includes information about why speeds will be lower and the factors that can impact attainable speeds.

Recommendation 3: Labels for fixed wireless should be consistent with those used for fixed line services







In instances where a consumer is warned that their local cell is experiencing congestion and that if they continue with signing up to the service they will experience very slow busy period speeds, the

consumer should be provided with both the average busy period speeds experienced on that cell, along with contextual information about what activities can and cannot be supported on that speed. This will further help to manage consumer expectations and prevent disappointment when a service does not perform as a consumer had hoped.

This information should be consistent with what is presented in the RSPs NBN Key Facts Sheet (as mandated by the ACMA NBN Consumer Information Standard). For example, in Telstra’s fixed wireless Key Facts Sheet⁷, they list common applications and activities and indicate whether the fixed wireless service is capable of supporting them:

Key Facts Sheet: nbn™ Services (Fixed Wireless)

Important information about the nbn network speed options available with Telstra.

Telstra Home Broadband Plan speed options		
<p>Basic Evening Speed – nbn12</p>  <p>2-5 Mbps download¹ Included with the Starter Home Broadband plan</p>	<p>Standard Evening Speed – nbn25</p>  <p>2-10 Mbps download¹ Included with the Essential Home Broadband plan</p>	<p>Standard Plus Evening Speed – nbn50</p>  <p>2-20 Mbps download¹ Included with Unlimited Home Broadband plans</p>
What can you do at these speeds?		
 <p>1-2 people</p>	 <p>1-3 people</p>	 <p>1-5 people</p>
online at the same time on multiple devices		
<ul style="list-style-type: none"> ✓ Emails and browsing ✓ Social media ✓ SD video streaming on 1 device ✓ Online gaming ✗ Download and upload large files 	<ul style="list-style-type: none"> ✓ Emails and browsing ✓ Social media ✓ HD video streaming ✓ Online gaming ✓ Download and upload large files 	<ul style="list-style-type: none"> ✓ Emails and browsing ✓ Social media ✓ HD video streaming ✓ Online gaming ✓ Download and upload large files

¹ Typical busy period download speeds (7pm-11 pm). Fixed Wireless speeds are variable and cannot be determined until your service is activated. Fixed Wireless speeds may be significantly impacted by congestion.

Recommendation 4: Warnings about cell congestion provided should be accompanied by information about what activities the congested service will be capable of supporting during the busy period

1.2. Question 4

Does the Guidance need to be further developed to address issues that may arise in respect of fixed wireless specific plans?

ACCAN considers that the proposed amendments to the guidance in regards to expanding its scope to fixed wireless are comprehensive and will work to meet consumer needs and enhance decision-making. Consumers require information about service performance, factors that can impact speeds

⁷ Telstra 2018: <https://www.telstra.com.au/content/dam/tcom/personal/help/pdf/cis-personal/nbn-key-facts/key-fact-sheet-nbn-services-fw.pdf>

(both within and beyond an RSP's control), and when congestion is likely to occur in a consumer's location. These points are all addressed in the guidance.

Further, ACCAN is very supportive of the proposed approach (under sections 5.38 and 5.54 and in Attachment C) whereby a RSP provides information about its fixed wireless services to customers specific to their geographical location. We consider that where a customer begins to sign-up to a fixed wireless service and their service location is in a congested cell area, the RSP must alert the customer to this fact. As stated above, this should include any corresponding information such as the maximum attainable speeds available from that cell, what activities these speeds can support, when/if there are upgrades scheduled, and prompt them to confirm they are willing to proceed with the purchase. This will help to manage consumer expectations and allow consumers to make a decision about whether to proceed with signing up to the service.

1.3. Question 5

Should the Guidance outline a default methodology for testing maximum attainable speeds on fixed wireless connections where this information is not provided by the network operator, e.g. in terms of time of day to test and number of tests to conduct?

ACCAN supports the inclusion of a default methodology for testing maximum attainable speeds over fixed wireless services in the guideline. We consider that this will be a useful tool to providers whose network operators do not provide such information. Guidance on how to test for speeds will promote consistency across the industry and enable providers who have limited resources to get the most accurate results from their testing.

A consistent framework will also allow for comparison of RSPs and the quality of service outcomes. This allows for benchmarking and in the future may be useful when considering factors that lead to some towers becoming more congested than others (in terms of demand) or due to environmental interference, and then what the most efficient approach is for upgrading or investment.

Recommendation 5: The guidance should include a default methodology for testing maximum attainable speeds on fixed wireless connections

1.4. Question 6

In addition to the proposed changes to the Guidance on Principle 3 and Attachment A, are there further enhancements that could be made to assist RSPs in ensuring consumer information remains current and claims based on support for online applications are reasonably based?

ACCAN supports the proposed amendments to ensure these sections of the guidance are up-to-date with current technologies and that RSPs are properly testing and re-testing when changes occur (such as to the wholesale access product) and accurately presenting speed performance.

1.5. Question 9

Are there other enhancements that could be made to the Guidance that would improve the information and support available to broadband consumers and to promote competition among RSPs?

Collecting speed data

Under section 5.35 of the guidance RSPs are encouraged to provide maximum attainable speed data. Where an RSP does not have the resources to collect this data, they are directed to provide instructions to consumers about how they can test the speed capacity of their connection for themselves. ACCAN proposes that the guidance include further instructions for how this information should be provided to consumers. For example, we consider this information must be provided in writing, in plain language, and that this information be readily available and accessible on an RSP's website, and provided at the request of a customer (such as via email or letter). Further, RSPs should provide over-the-phone support where necessary to help consumers setup the testing mechanism and provide results back to the RSP.

Whilst supporting consumers to perform their own speed tests is important, we consider that a better alternative is to require NBN Co to provide assistance to smaller RSPs to run accurate tests. Consumers are not responsible for poor service performance and where possible should not be tasked with setting up speed tests. It is more reasonable to expect NBN Co to assist RSPs in collecting this data themselves. It is important to balance the requirements placed on RSPs, the wholesale service provider, and consumers in a way that is proportionate and does not compromise competition in the fixed wireless market. In this sense, NBN Co is best placed to provide the assistance needed to accurately collect and present speed data for specific cells.

Recommendation 6: Preferable to RSPs providing information to consumers about how to perform their own speed tests, NBN Co should provide assistance to smaller RSPs to allow them to run the speed tests themselves

Recommendation 7: Information provided to consumers about how to do a speed test must be in given in writing, in plain language, and be readily available and accessible

Recommendation 8: RSPs should provide over the phone support for speed testing where requested by a customer

Provision of cell congestion warnings

ACCAN considers that the NBN search function provided on RSP websites (that determines if a consumer's address can get the NBN and the available technology type) could be enhanced by providing any relevant warnings about fixed wireless (similarly to the information provided alongside marketed plans and during sign-up processes). For example, when a consumer types in their address and it is recognised that they are only able to receive fixed wireless they should be provided with the following information (where relevant):

- Average attainable speeds on the network for a consumer's location based on results from the RSPs testing
- Information about attainable speeds during periods of heavy usage (busiest hour)
- Whether a consumer's local cell is experiencing congestion issues and if it is, the average speeds at busy periods

- If congestion is flagged as an issue, then information about what types of activities the congested service is capable of supporting
- Information about scheduled updates (where relevant)

We also propose that when a consumer is signing up to a fixed wireless service over the phone they are sent the above information in writing (such as via email) and encouraged to read it prior to completing the sign-up process.

Recommendation 9: The guidance should encourage RSPs to provide fixed wireless specific information when a consumer uses the RSP's website NBN search tool and their address is only able to receive fixed wireless broadband