



TELSTRA CORPORATION LIMITED

Telstra Submission responding to the ACCC consultation on changes to the Broadband Speed Claims – Industry Guidance

Public submission

25 February 2022



EXECUTIVE SUMMARY

We welcome the opportunity to make this submission in response to the Australian Competition and Consumer Commission's (ACCC) consultation on revising the *Broadband Speed Claims – Industry Guidance* (the Guidance) document.

Providing our customers with clear and easily understandable information to help them make an informed choice about their broadband service is a high priority for us. While we broadly agree with the ACCC's view that upload speed has become more important for our customers, we do not believe it is necessary to update the Guidance to include advice on the disclosure of upload speeds information in marketing. This is because unlike download speeds, upload speeds are rarely impacted by congestion during busy periods. The addition of such a requirement would unnecessarily complicate marketing material while providing very little benefit to consumers. As an industry, we should be making technology as accessible as possible to every Australian – and simplicity with plain speaking language is critical in achieving that purpose. If the ACCC forms a view that the additional guidance is necessary, any requirements relating to the disclosure of upload speeds information should be limited to longer form marketing material (e.g., CIS or Key Facts Sheet) as chosen by the RSP, but not in all marketing material.

The best way to improve consumer upload speed experience is for NBN Co to supply additional AVC upstream capacity to carry the TCP overhead data in a similar fashion to what it has done for download speeds. This will enable RSPs to supply the full upload NBN plan speeds to consumers. We ask that the ACCC explore this matter further with NBN Co.

Similarly, in regard to fixed wireless broadband performance, we don't believe the Guidance section on 'Services utilising fixed wireless technology' needs to be updated. There are many factors that influence fixed wireless broadband services and including them all could be overwhelming and confusing to the customer and add an unnecessary level of complexity to marketing materials. If such disclosure is deemed necessary, again, any additional information must be simple and meaningful to our customers and should only be required in longer form material.



01 Upload Speeds information

The consultation paper proposes the Guidance should be updated to require RSPs to clearly state typical busy period upload speeds information in their broadband marketing for services provided over both fixed line and fixed wireless access networks, noting the following:

- upload speeds have become more important to consumers' broadband experience due to recent trends towards working and learning from home; and
- information about upload speeds has become less transparent since 2020.

While we agree that consumers are engaging in home-based work and study more often than ever before, congestion for upload traffic is much less significant than for download traffic. This is because, as acknowledged in the consultation paper¹, we generally provision our networks for the peak download activity. Download traffic is substantially greater than upload traffic (typically 20x greater), and CVC capacity is symmetrical for both download and upload traffic, so there is ample capacity in the network to cover the demand associated with upload traffic.

In regard to transparency, we note that Telstra already monitors and expressly states the typical upload speeds for its NBN fixed plans (except for Belong products) and 5G fixed wireless plans in online marketing materials that are available to potential customers before and at point-of-sale.

Given that congestion is not an issue for upload speed, we do not think it is necessary to include upload speed reporting in the Guidance. We already provide this information in some of our advertising material as noted above. Our biggest concern is that any new requirements for communicating information about upload speeds in marketing material must be relevant to customers, avoid adding clutter and complexity to our headline advertising, and minimise any expansion of the already onerous set of regulatory obligations that we face for broadband speed claims. If this disclosure is required it should, at most, only have to be included in longer form marketing material (e.g., online, or in CIS or Key Facts Sheets) as chosen by the RSP, but not in all marketing material. Additionally, RSPs ought only to be required to disclose typical upload speeds in marketing materials which also reference the wholesale access network upload speeds.

Our position is further explained in our responses to the ACCC's questions below.

1.1. Busy periods – Response to questions

1) How does the busy period for upload speeds affect the service quality experienced by end-users, including on higher speed services?

As already explained above, congestion in upload traffic is not a significant factor as we provision our network for the peak download traffic so there is ample capacity for the upload traffic. At the CVC level, congestion is minimal because CVC allocation is symmetrical between download and upload capacity and the large amounts of CVC capacity in place for download traffic is more than needed to address the smaller upload requirements.

On occasions it is possible that there is localised congestion in the NBN access part of the network (e.g., in an HFC sector or NBN fixed wireless) but it is not likely to be widespread nor have significant impact on

¹ Consultation paper, p.5



network averages. Further RSPs do not have visibility of where this may be occurring other than from NBN reporting.

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- 2) Are there any significant barriers to RSPs providing typical busy period upload speed information for:
- fixed-line broadband services,
 - fixed wireless broadband services?

We already monitor for third worst busy hour upload speeds using the same measurement methodology as that in the existing Guidance for download speeds. This monitoring is used to support our upload speed marketing.

While there are no significant barriers to providing typical busy period upload speed information from a measurement perspective, given that upload congestion is immaterial, our biggest concern with including typical upload speeds in the Guidance is the added complexity it may introduce to our marketing material and headline advertising. Please see our response below to question 6.

- 3) What four-hour period in a 24 hour period is the busy period for upload speeds for:
- fixed-line broadband services,
 - fixed wireless broadband services?

Our data shows that 7 pm to 11 pm is the busiest period for upload speeds. This is true for both fixed-line broadband services and NBN fixed wireless broadband services. Consequently, we see no value in adopting a different busy period definition for upload speeds and consider 7 pm to 11 pm should be used as the busy period for both upload and download speeds. Defining a different period would unnecessarily complicate information that needs to be presented in customer marketing material and make it more difficult for consumers to digest.

- 4) How many services should constitute a sample for testing upload speeds, noting that the Guidance currently suggests 75 services for download speeds?

The sample size requirements for testing upload speeds should be exactly the same as for download speeds as there is really no conceptual difference between measuring the two speeds. In our view, 75 provides a good sample size for testing speeds, although we use a much larger size for our speed claim calculations to obtain greater accuracy.

- 5) What constraints on a line or cell affect upload speeds in a way that deteriorates service quality experienced by an end-user?

The various issues that impact download speeds (e.g., long copper lines in FTTN, in house wiring) can also impact upload speeds.



The best way to improve consumer upload speed experience is for NBN Co to supply additional AVC upstream capacity to carry the TCP overhead data in a similar fashion to what it has done for download speeds. This will enable RSPs to supply the full upload NBN plan speeds to consumers. We ask that the ACCC explore this matter further with NBN Co.

6) What additional amendments to the Guidance would assist RSPs to provide upload speed information about their fixed line and fixed wireless services to consumers?

There are no additional amendments to the Guidance that would assist us in providing upload speed information for consumers.

Given that congestion is not an issue for upload traffic (see answer to question 1), we strongly believe that an update to the Guidance is not necessary. While we already provide typical upload speed information for Telstra's fixed NBN plans and 5G fixed wireless services on our website (see our response to question 2), our main concern with explicitly including such requirements in the Guidance is that it would add unnecessary complexity and clutter to our marketing material. Such a requirement would be unhelpful to customers as it would make it harder to actually read and focus on most important indicator of service performance which is the typical download speed. If this disclosure is required, we recommend that at most, it should only have to be included in longer form marketing material (e.g., online or in the CIS or Key Facts Sheet) as chosen by the RSP, but not in all marketing material. Additionally, RSPs ought only to be required to disclose typical upload speeds in marketing materials which also reference the wholesale access network upload speeds

02 Emerging fixed wireless broadband products

We agree with the view expressed in the consultation paper that fixed wireless broadband products are becoming available from a greater ranger of fixed wireless access networks. Telstra supplies the NBN fixed wireless product and one other fixed wireless product (5G Home and Business internet²).

While we confirm that the additional factors listed by the ACCC³ are relevant to fixed wireless broadband performance, we don't believe the Guidance section on 'Services utilising fixed wireless technology' needs to be updated. There are many factors that influence various fixed wireless broadband service and including all these factors can be overwhelming and confusing to the customer and add an unnecessary level of complexity to marketing materials. However, if such disclosure is deemed necessary, any new requirements for disclosing information about these factors must be simple and meaningful to our customers, and the information should only be required in longer form material.

Our position is explained further in our responses to the ACCC's questions below.

2.1. Fixed Wireless broadband services – Response to questions

7) How are the following attributes, other than speeds, noticeably different to consumers on fixed line and fixed wireless broadband services, and between fixed wireless technologies? What other attributes are relevant?

² <https://www.telstra.com.au/internet/5g-broadband-plans>

³ Consultation paper, p.7 – listed under question 8



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- a) availability and drop outs
 - b) latency

In addition to the fixed wireless offering on NBN, Telstra offers another fixed wireless internet plan on our mobile network — 5G Home and Business internet. In terms of availability, this product is only available in selected areas, there is a limit on the number of services available per postcode and it is only available where a customer can meet our service qualification (SQ) tests.

Our SQ tests support end users having a positive experience, and as a result of this we believe that there should be no noticeable difference between our fixed line and wireless internet broadband services. Both 5G and fixed line internet are low latency products.

In regard to drop outs, both fixed and fixed wireless services can be subject to outages, but these are not a source of material difference in terms of the service outcomes received

8) How are the following factors likely to influence how a fixed wireless broadband service will operate in practice? What other factors are relevant?

- a) frequency band used
- b) distance and unobstructed line of sight to base station
- c) fixed wireless access network cell congestion
- d) sources of interference
- e) weather
- f) location- specific factors
- g) use of external antenna
- h) professional or self- installation
- i) number of concurrent users
- j) placement and quality of Wi-fi modem.

We confirm that all the above factors may influence the quality of a fixed wireless broadband service. Many of the listed factors can also change over time, e.g., building work and foliage contribute to the 'distance and unobstructed line of sight to base station' factor and may vary over time. It is also the case that not all factors may be relevant to the provision of service to any specific customer location.

As noted in the consultation paper, some of the factors are influenced by the network design and spectrum strategy decisions which are commercial decisions for each network operator, and some of the issues are outside the control of a network operator or an RSP⁴.

9) Are there any significant barriers to RSPs disclosing to consumers any of the factors above that may affect the speeds receive in fixed wireless broadband services?

While we agree that the additional factors listed above (in question 8) are relevant to fixed wireless broadband performance, there are significant variability and uncertainty associated with many of these. It would be challenging to disclose all the possible factors that may affect a fixed wireless broadband service in a meaningful way for consumers, and without adding too much complexity to the marketing material. A more pragmatic approach would be for RSPs to report a wide range of typical speeds to account for these variabilities. In the case of our 5G Home and Business internet service, we advertise a wide typical speed

⁴ Consultation paper, p.6



range (download speed range 50 Mbps - 600Mbps and upload speed range 10 Mbps - 90 Mbps) to account for this variability. Additionally, our SQ arrangements control for as many factors as possible to ensure that delivered customer speeds are in these ranges.

If the Guidance is to be amended based on the proposal, any new requirements for disclosing information about these factors must be simple and meaningful to our customers. Any information about the factors should only be required in longer form material.

10) Are there applications that are less well supported by fixed wireless broadband services on different fixed wireless access networks? If so, in what way?

Telstra's 5G fixed wireless services have good speed and latency and in general can support all applications that fixed line services support. We have less visibility of NBN fixed wireless performance and how it relates to applications.

11) To what extent do RSPs offer standalone plans on alternative fixed wireless access networks?

Telstra only has one alternative wireless internet plan, 5G Home and Business internet, aside from NBN Fixed Wireless.

12) What additional amendments to the Guidance would assist RSPs to disclose to consumers factors that may affect the speeds, download and upload, they would expect to receive on fixed wireless broadband services?

There are no additional amendments that would assist RSPs to disclose consumer factors except to ensure that any additional performance factors to be disclosed for fixed wireless broadband services are not unnecessarily onerous, are meaningful to our customers and not have to be spelt out in headline advertising material.