

## Communications Consumer Panel and ACOD response to CAP and BCAP's consultation on speed claims in broadband advertising

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The Communications Consumer Panel (the Panel) and the Advisory Committee for Older and Disabled People (ACOD) welcome the opportunity to comment on CAP and BCAP's consultation on speed claims in broadband advertising.

The Panel works to protect and promote people's interests in the communications sector, including the postal sector. We are an independent statutory body set up under the Communications Act 2003. The Panel carries out research, provides advice and encourages Ofcom, governments, the EU, industry and others to look at issues through the eyes of consumers, citizens and micro businesses.

The Panel pays particular attention to the needs of older people and people with disabilities, the needs of people in rural areas and people on low incomes, and the needs of micro businesses, which have many of the same problems as individual consumers.

Four members of the Panel also represent the interests of consumers in England, Northern Ireland, Scotland and Wales respectively. They liaise with the key stakeholders in the Nations to understand the perspectives of consumers in all parts of the UK and input these perspectives to the Panel's consideration of issues. Following the alignment of ACOD with the Panel, the Panel is more alert than ever to the interests of older and disabled consumers and citizens.

### Response

The Panel welcomes CAP and BCAP's research and its proposal to make the wording used in broadband advertising more meaningful and less likely to mislead consumers.

We have long called for the replacement of the term "*up to*" with an indicative estimate labelled "*at least*", so that consumers are given more certainty that the service they are buying will provide them with an assured minimum speed rather than a notional possible maximum speed that in reality they are unlikely to ever receive. We also believe that it should be made clear that advertised speeds are to the premises.

We very strongly object to and disagree with the current situation that allows headline speeds such as "*up to xMbits per second*" to be advertised if they are achievable for only a minimum of 10% of customers. Such a threshold is absurdly low in our view and customers have no way of knowing in advance if they will get that level of service. What this effectively means is that an advertised level of service is a de facto premium level of service - yet up to nine in ten consumers are paying the same charge for a worse service than they require. That cannot be right.

At the point of sale, the consumer will not know whether he or she will be in that lucky few that get the advertised "up to" speed. By the time up to nine out of ten consumers in



that situation realise they are not able to achieve the headline speeds advertised, they will have been tied into a contract that they may have to pay to get out of, or at least not without having to navigate their broadband provider's customer services and complaints processes. This is not transparent and it is - we believe - an example of an unfair practice that should be stopped. The impact will be worse for consumers in rural areas, where the likelihood is that they will receive significantly lower speeds than those advertised.

The foremost concern of the Panel is naturally with consumers, however we would also argue that the current situation creates a series of costs for providers. There is not only the reputational cost associated with causing consumers to feel misled, but there is also the operational cost of creating, and having to deal with, an area of contention and customer complaint.

Reducing the potential for customer complaints would clearly create an operational benefit for suppliers but it is also beneficial for consumers, not just because of the emotional stress and time required in seeing through a complaint but also because suppliers complaint services are not always fit for purpose.

Our studies 'Going round in Circles'<sup>1</sup> and 'We're not all the Same'<sup>2</sup> indicate that consumers do not find it easy to negotiate with their providers and that the situation is worse for people who are already in vulnerable circumstances in terms of navigating the market; they may be disadvantaged by the inflexibility of their providers' customer service processes due to their circumstances (for example, complaints not being allowed through certain communication channels or barriers to escalation).

We therefore believe that it is vital that the advertising of broadband speeds is honest and transparent from the outset. And if advertised speeds are not achieved we believe that providers should bill proportionately less to reflect the level of service that they are delivering to consumers - and that consumers should know what that service is, so that if they need to challenge their provider they are armed with all the facts. In the years that have passed since the guidelines on advertising broadband speeds were last reviewed, it has become easier for providers to calculate broadband speeds; some provide speed checkers on their websites and Ofcom has produced a mobile coverage app. These tools should be clearly signposted for consumers to use and not hidden in the small print under a claim of "up to" a certain speed.

Consumers should be able to compare the deal they are offered by their current provider with those of other providers so that they are able to switch where and when appropriate. This can only be made possible if consumers are able to understand what is the lowest speed they may get is and are able to compare this with consistent metrics from other providers. This is perhaps even more important to micro business owners, who may not specialise in IT and may not have the income to hire an IT specialist to set up their broadband connection as their larger counterparts would, but whose business may depend on their being able to access certain speeds.

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<sup>1</sup> <http://www.communicationsconsumerpanel.org.uk/going-round-in-circles/going-round-in-circles>

<sup>2</sup> <http://www.communicationsconsumerpanel.org.uk/research-and-reports/we-re-not-all-the-same-inclusive-communications>

The Panel and ACOD commissioned research on the importance of communications to micro businesses ('Realising the potential'<sup>3</sup>), which also highlighted the needs of micro business owners with a disability. The research highlights that communications services play a critical role in the success of micro businesses. However, they face a wide range of challenges in using and fully exploiting the opportunities offered by these services and technology for the benefit of business. Misleading speed information is harmful in this context.

We would also recommend that broadband providers are obliged to give real-life examples of broadband speeds and use in their advertising, so that consumers are able to understand what a certain speed measurement actually means. We note that some broadband providers already proactively provide this information. This provides a useful gauge to consumers, in understanding what speeds they actually require to meet their needs and/or and grow their business - instead of their paying extra to secure a higher speed bracket than they may need, just in case.

We are also contributing to Ofcom's work with broadband providers on their voluntary Codes of Practice regarding broadband speeds in order to ensure that consumers are protected from unfair practices and confusing or misleading claims.

## Summary

- We fully support the removal of the term "up to" from broadband advertising and would suggest it is replaced with a calculation of "at least" a certain speed to the premise;
- We believe that more realistic advertising should pave the way to fairer, proportionate billing;
- We recommend that the improvement in advertising language and terminology should be supported with a meaningful illustration of the types of activities that can be achieved with that level of speed, so that consumers do not feel that they need to pay extra for more speed than they need, "just in case".

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<sup>3</sup> <http://www.communicationsconsumerpanel.org.uk/research-and-reports/realising-the-potential-micro-businesses--experiences-of-communications-services>