



INTERNET ASSOCIATION OF AUSTRALIA
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To: Australian Competition and Consumer Commission

By submission: <https://consultation.accc.gov.au/regulated-infrastructure/2022-broadband-speed-claims-guidance-consultation/consultation/intro/>

Thank you for the opportunity to express the Internet Association of Australia (IAA) perspective on the 2022 Broadband Speed Claims Industry Guidance. IAA welcomes the guidance being provided to industry and recognise the fundamental importance of providing consumers with clear and reliable information about the performance of their broadband services.

Many of IAA's members are small to medium sized internet service providers (ISPs) who are also NBN retail service providers (RSPs). This response will largely be from the perspective of our members who conduct business as smaller RSPs.

OUR RESPONSE

On the whole, IAA supports the six guidance principles and how they should apply to representations of broadband speed and performance. Our members are committed to providing their customers with reliable and accurate information and complying with the *Australian Consumer Law (ACL)* as well as the *ACMA Telecommunications (NBN Consumer Information) Industry Standard 2018 (Information Standard)* and *Telecommunications Service Provider (NBN Service Migration) Determination 2018 (Determination)*. We believe this to be fundamental to fostering trust between businesses and consumers, to the benefit of the continued development of NBN broadband services.

However, as smaller RSPs, we believe our members will require further clarification and assistance to ensure they are able to adopt best practices. While we appreciate the clauses under each principle providing greater details and examples, we believe more is required to help clarify the expectations and standards for businesses.

For example, an area where the language requires clarification or further explanation is what constitutes "prominent" indication. We believe the ACCC should provide clear examples as to the wording which would meet this expectation to ensure businesses are applying this standard.

In addition, we believe that clause 3.7 under Principle 3 should be amended to ensure clarity and harmonisation with the Information Standard. The Information Standard prohibits use of the term "up-to" or other words with similar meaning in any advertising material about speed for NBN broadband services under s 11(1)(c) whereas the Guidance only advises that businesses should "avoid" use of the term. While the prohibition under the Information Standard may not apply to

services using the NBN fixed wireless or satellite networks, the clause should still clearly reflect the prohibition which otherwise applies under the Information Standard, and note that in the case of services supplied under fixed wireless or satellite networks, the use of the term should be avoided. We believe this is necessary to mitigate any confusion and ensure compliance with the Standard.

IAA also raises concerns as to clause 3.40 under Principle 4 where it advises that “RSPs should accept the validity of those results provided by their customers.” We recognise that receiving test reports from customers is not the preferred option and that RSPs should test the connection themselves. However, even where RSPs should rely on customers’ own testing, we believe that some guides on how customers should conduct testing and what is recommended for acceptance should be provided to ensure accuracy and reliability of the reports.

Furthermore, we oppose the proposal of the ACCC to consider whether RSPs have taken steps to apply the measures provided in the Guidance when assessing their compliance with the ACL. We believe that instead of this seemingly punitive approach, the ACCC should further encourage RSPs by providing support and incentives to apply the Guidance.

Once again, IAA appreciates the opportunity to contribute to the 2022 Broadband Speed Claims Industry Guidance. We look forward to representing our members and the broader public interest in continued engagement with the ACCC, as well as other stakeholders, to ensure the development of an effective Industry Guidance for NBN broadband speed claims.

ABOUT THE INTERNET ASSOCIATION OF AUSTRALIA

The Internet Association of Australia (IAA) is a member-based association representing the Internet community. Founded in 1995, as the Western Australian Internet Association (WAIA), the Association changed its name in early 2016 to better reflect our national membership and growth.

Our members comprise industry professionals, corporations and affiliate organisations. IAA provides a range of services and resources for members and supports the development of the Internet industry both within Australia and internationally. Providing technical services as well as social and professional development events, IAA aims to provide services and resources that our members need.

IX-Australia is a service provided by the Internet Association of Australia to Corporate and Affiliate members. It is the longest running and lowest cost Internet Exchange in Australia. Spanning six states and territories, IAA operates over 30 points of presence and operates the New Zealand Internet Exchange on behalf of NZIX Inc in New Zealand.

IAA is also a licenced telecommunications carrier, and operates on a not-for-profit basis.

Yours faithfully,

Narelle Clark
Chief Executive Officer
Internet Association of Australia