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Australian Competition and Consumer Commission
GPO 3131
CANBERRA ACT 2601

Submitted via website: consultation.accc.gov.au/regulated-infrastructure/2022-broadband-speed-claims-guidance-consultation

Consultation on revising the Broadband Speeds Claims – Industry Guidance

AGL Energy (AGL) welcomes the opportunity to comment on the Australian Competition and Consumer Commission's (ACCC) consultation on revising the Broadband Speeds Claims Industry Guidance (the Industry Guidance), dated 28 January 2022.

Following the purchase of the Southern Phone Company (SPC) in 2019, AGL entered the telecommunications industry to become one of Australia's largest energy-led multi-service retailers, providing over 4.2 million electricity, gas and telco services to residential, small, and large businesses, and wholesale customers. AGL and SPC offer its customers a variety of telco services including internet (NBN), mobile and home phone plans.

AGL provides its comments on the changes to the Industry Guidance proposed by the ACCC below:

Upload Speeds & Busy Periods

The ACCC is considering amending its guidance by inserting a statement that RSPs should state their typical busy period upload speed information in their marketing for services provided over both fixed line and fixed wireless access networks.

AGL strongly supports the principle that consumers should have easy access to relevant and accurate information to enable them to make informed decisions as to their broadband service, and retail service provider. AGL's view is that:

- the most relevant information is already captured in the existing guidelines; and
- the provision of additional information would likely to detract from customer experience by adding unnecessary complexity.

AGL observes that the original Guidance was

'developed in response to high levels of concern, complaints and dissatisfaction about perceived 'slow data speeds' and a desire among consumers for easily comparable speed and performance information'.

AGL understands that comment related to download speeds. AGL is not aware of any data suggesting that there is any concern, or desire for additional information, regarding upload speeds. Accordingly, it is not clear that there is any need for change.



AGL considers the decline in references to upload speeds in RSP marketing material largely reflects competitive market forces and consumer preferences. Through frequent interaction with consumers, RSPs gain experience and improve their understanding of the information most relevant and meaningful to consumers.

RSPs already provide a significant quantity of information regarding broadband plans, including as to maximum line speeds and typical busy period download speeds, which in practice differ between technology types. The addition of further information would introduce a level of complexity which we do not consider will assist consumers. Instead, we consider it would be more likely to create confusion and make it more difficult for many consumers to identify and understand the information relevant to their decision making. If different retailers provided information as to typical upload speeds at different times, as is contemplated in the consultation paper,¹ it could create further complexity that would be more likely to confuse than to assist consumers.

AGL does not consider that upload speeds are presently a source of any material differentiation between retail service providers. That is for reasons including maximum upload speeds provided on NBN consumer plans are in most cases only one fifth the maximum download speeds. In consequence the bandwidth typically provisioned to allow for download means there is unlikely to be congestion in upload speeds throughout the RSPs network.

Accordingly, AGL considers a more meaningful measure for consumers in relation to upload speeds is the maximum attainable upload speed which is already reflected in RSP Critical Information Summaries.

AGL also observes that the IT infrastructure required to collect and analyse data for this purpose is expensive and that additional regulatory burdens will create additional cost.

Fixed wireless broadband services

The ACCC is considering amending its guidance to provide further assistance to RSPs on the best practice for disclosing to consumers the factors known, or ought reasonably to be known, that would affect the download or upload speeds received by an end-user.

AGL's view is that NBN Co are best placed to provide information as to the issues identified in the consultation paper because, for almost all of those issues:

- NBN has first-hand access to this information based on their knowledge of the towers;
- they are within the knowledge of NBN Co but are not known by the RSP; and
- that information will not differ as between RSP.

AGL considers Critical Information Summaries already contain a list of the most significant factors that affect speed of fixed wireless services. This includes information to make the customer aware that fixed wireless services are flexible and can change based on a number of parameters.

¹ Australian Competition and Consumer Commission, *Consultation on revising the Broadband Speeds Claims – Industry Guidance*, January 2022, p 5.



If you would like to discuss any aspect of AGL's submission, please contact Valeriya Kalpakidis at vkalpakidis@agl.com.au.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Valeriya Kalpakidis'.

Con Hristodoulidis

Senior Manager Regulatory Strategy

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