Advice Note to Broadband Providers

The ASAI has recently received a range of complaints from consumers concerning advertising for broadband services. The Complaints Committee of the Authority have now adjudicated upon a number of these complaints and in addition they requested the Secretariat to revise the existing Advice Note to Broadband Providers in order to provide clarity on the level of information that should be provided in their advertising. In drawing up this Advice Note, the ASAI has drawn on the guidance and advice of the Commission for Communications Regulation (ComReg) and the National Consumer Agency (NCA).

The Code of Standards for Advertising, Promotional and Direct Marketing requires in relation to marketing communications:

- that before offering a marketing communication for publication, advertisers should satisfy themselves that they will be able to provide documentary evidence to substantiate all claims, whether direct or indirect, expressed or implied, that are capable of objective assessment. Relevant evidence should be sent without delay if requested by the Authority and should be adequate to support both detailed claims and the overall impression created by the marketing communication. (2.9)
- that the design and presentation of marketing communications should allow them to be easily and clearly understood. That where footnotes or ‘small print’ sections are used, they should be of sufficient size and prominence and easily legible; where appropriate they should be linked to the relevant part of the main copy. (2.23)
- that they should not mislead by inaccuracy, ambiguity, exaggeration, omission or otherwise. (2.24)
- that claims such as “up to” and “from” should not exaggerate the value or the range of benefits likely to be achieved in practice by consumers. (2.26)
- that advertisers should be in a position to meet any reasonable demand created by their advertising (2.45).
- that where there is limited availability of some or all of the products advertised, apart from indicating that there may be other terms and conditions which apply, advertisers should not exaggerate the availability of any of those products (2.46).

Availability
In general, advertisers offering broadband services should take care in the design and presentation of their marketing communications so as not to exaggerate the availability of their product. This is of particular importance when national media are used.

If the provision of the broadband service is dependent on such criteria as the quality of individual phone lines and/or their distance from the telephone exchange, then a reference must be included that the service is dependent on survey, compatibility and availability.

Where the provider offers a limited geographical coverage, advertising in national media must include an appropriate reference such as ‘service dependent on coverage’ or ‘availability dependent on coverage’.

If there are material restrictions on access to certain programmes / services, then reference to such restrictions should also be given.
Speed of service
Where broadband speeds are described by the maximum speed attainable, they must be described as an ‘up to’ speed.

Where a reference to speed is included in an advertisement, in order to ensure clarity for consumers, advertisers must state the speed in the busy hour ¹ for the particular product ² (An example of an acceptable statement is “Busy hour speed is xx”). This statement should be included in the body copy and not in the small print sections of advertising.

It must be clear to consumers that advertised speeds are not achievable in all circumstances. The prominence of the required clarification in the advertisement will be dependent on the normal variance between the advertised top speed and that typically achieved by consumers.

Where a particular broadband speed is being promoted or where superlatives such as ‘high speed’, ‘fast’, etc are used, a reference to the variability of speeds should be included. Phrases such as ‘Broadband speeds may vary’ are acceptable provided that the busy hour speed is close enough to those advertised so as not to affect the customers’ experience in any meaningful way.

Copy Advice
The ASAI operates a copy advice service that is quick, confidential, free and of an advisory nature. We are glad to give advice on any proposed advertisement’s compliance with the Code of Standards for Advertising, Promotional and Direct Marketing.

F Goodman,
CHIEF EXECUTIVE.

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¹ The busy hour is the hour of heaviest demand averaged throughout the network during what is typically the heaviest day of usage in a week. This should be based on traffic figures over each calendar quarter, or from the date of any improvements affecting service.

² Particular product: This refers to each distinct broadband product advertised by the provider.