

## **Response: Ofcom Broadband Speed Codes of Practice Consultation**

### **Introduction**

ISPA welcomes the opportunity to submit feedback on Ofcom's consultation on the Broadband Speed Codes of Practice. In preparing this response, we have consulted with our membership of over 200 members, 90% of which are SMEs. Our members cover the whole spectrum of access provision in the UK using FTTP, FTTC, wireless and satellite connections at a wholesale and retail level. Our members play a critical role in delivering broadband and internet services across the UK to consumers and businesses UK.

ISPA fully supports Ofcom's review and reform of the Codes. We note Ofcom's positive assessment of how the Broadband Speed Codes have operated so far and believe that the opening of the Codes to providers of all broadband technologies will be a significant improvement. Enabling all types of providers to sign up to the codes will not only help to increase the number of signatories to the Codes but also enable providers to compete on a level playing field with one another.

At a general level we believe that the revised Codes work well, and we support the overarching principles. However, there are three areas where we believe further work is needed to maximise the effectiveness and take-up rate of the Codes:

- 1. Testing, requirements, protocols and sampling methods:** These need to be transparent, ensure that speed figures are created in a comparable manner, and work for all types of providers (independent of network technology or size of business). Requirements that are complicated or costly to implement risk pricing-out smaller providers. Rules that do not cater for the way different networks are built also risk limiting the take-up rate of the Codes. Providers that are interested in signing up to the Codes but cannot due to technical or financial barriers would be put at a competitive disadvantage. Some issues that have been raised with us in this context include:
  - limited capabilities of "off-net" servers to cater for ultrafast connections;
  - difficulties for providers to customise router firmware to enable testing at router level as some suppliers do not make customisation options available to all their customers (e.g. because a provider does not buy the required minimum number of units); and
  - whether there would be the ability to directly work with 3<sup>rd</sup> party speed testing services.
- 2. Guidance:** Clear guidance should be provided by Ofcom to customers to inform them about their rights under the Codes. This guidance would also be an ideal place to inform consumers about the importance of various speed measures (including minimum and upload speeds) and in-home connectivity issues that are outside of the control of a communications provider. Moreover, the guidance could be used to suggest a clear protocol for establishing connectivity issues under the Codes (i.e. what are the responsibilities of the providers and the consumers) – particularly as there is only a short 3-day window for triggering the 30-day cancellation period.
- 3. Regulatory consistency:** Consistency is required across policy measures and initiatives – this is particularly important for ongoing work by CAP and the ASA on their review of broadband advertising guidance. Common speed measures and approaches should be used to minimise consumer confusion and avoid additional cost burdens on industry.

We encourage Ofcom to work with ISPA and its members to further specify the testing requirements and urge Ofcom as well as other regulators to avoid any intervention that is likely to discourage customers from taking up ultrafast services.

## **Response to consultation questions**

**Do you agree that the codes should require the provision of speed estimates that reflect peak-time network congestion?**

Yes.

**Do you agree that the minimum guaranteed speed should always be given to customers at point of sale?**

Yes.

**Do you agree that, where a customer's speed falls below the minimum guaranteed level, there should be a limit on the length of time providers have to fix the problem before offering the right to exit? Do you agree that the limit should be 30 calendar days?**

We agree that there should be a limit but feedback from our members suggests that providers will find the 30-calendar day period challenging to comply with. While we received this feedback from both small and large providers, smaller resellers of broadband products in particular would find the potential financial impact of booking a greater contingency of Openreach engineers challenging to bear. Accordingly, the 30-day period might make it difficult for these providers to sign-up to the Code – a longer time period, e.g. 60 days would seem to be a more appropriate balance between providing consumer with a right to cancel and limiting the financial compliance costs for ISPs.

**Do you agree that the right to exit should also apply to a landline service sold over the same line, and to pay-TV services purchased at the same time, as the broadband service?**

Yes, as long as this only applies to the Residential Code.

**Do you agree that the codes should be capable of being applied in full to all standard fixed broadband technologies, including cable and FTTP?**

Yes, the Code should be open to all providers independent of the technology that is being used to deliver a broadband service – being a code signatory can provide a competitive edge and excluding certain technologies would put the relevant providers at a competitive disadvantage.

We believe that the general principles of the codes work well across all technologies, although further work is required to ensure that testing, requirement, protocols and sampling cater for all types of technologies and for all sizes of providers, particularly because Codes have historically been developed with partially copper-based networks and larger providers in mind. Overall, it is essential that the Code provide a level playing field for providers, regardless of size or technology.

**How long do you consider that signatories should be given to implement the proposed changes following publication of the final version of the codes?**

No comment.