

## **ASA and Ofcom research into broadband pricing advertisements**

### **Summary**

- Joint research commissioned by the Advertising Standards Authority (ASA) and Ofcom has revealed that pricing offers in fixed broadband are likely to mislead consumers about the true cost commitment of introductory and on-going broadband deals and the cost commitment over the lifetime of the contract.
- The ASA will therefore work with broadband providers to bring about a change to the way broadband pricing is advertised, by 30 May 2016, to ensure that consumers are not misled or confused by broadband ads.
- We will produce a new set of standards for pricing offers from broadband providers, which will be aimed at simplifying the presentation of pricing information, consolidating the display of costs and ensuring all costs which are required to obtain the service are displayed with suitable prominence.

### **Background to the issue**

- In 2012, following a public consultation, the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) published new guidance on how advertisers could advertise broadband speeds without misleading consumers.
- Prior to this announcement, broadband providers competed predominantly on the basis of broadband speed claims in their advertising. However, following the publication of this guidance, we have noted a shift in emphasis away from speed as a main marketing message, with providers increasingly focused on pricing as a means to distinguish themselves from their competitors – with companies routinely leading with the lowest possible headline price, raising the question of whether consumers have a realistic understanding of the regular costs they are likely to pay once the introductory period ends.
- The ASA regularly receives complaints regarding what consumers perceive to be misleading pricing claims in broadband ads, and we have noted the level of dissatisfaction and concern with such advertising practices. The ASA also took note of the Office of Fair Trading's 2013 research on partition pricing (where two mandatory pricing components of a contract or purchase are listed as separate cost elements rather than as one consolidated cost), which found that the presentation of such pricing practices could lead to more consumer mistakes in purchasing behaviour.

### **The research**

- In June 2015, Ofcom and the ASA commissioned independent qualitative and quantitative research from Futuresight to assess consumers' ability to interpret the pricing information in broadband advertisements.
- Key findings from the research made it clear that popular pricing structures displayed in broadband ads are likely to mislead consumers:
  - Only 23% of participants correctly identified the total cost per month of a deal after the first viewing of an ad
  - 22% of participants were not able to correctly identify the total cost per month of the deal after reviewing the ads for a second time and being asked to focus on the deal – extrapolated across the entire population of fixed broadband subscribers in the UK,

this equates to 4.3 million UK households being unclear on the cost of their broadband deal from the information in the ads

- 81% were not able to correctly calculate the total cost of a broadband contract despite additional reviews of the ads
- 74% of participants believed that the information regarding one-off and ongoing costs after an introductory period was either fairly or very unclear
- Common areas for confusion included a lack of awareness that landline rental must be added to the cost of the broadband service and unequal prominence or clarity given to that element in the ad, consumers failing to notice or take account of the total length of the fixed contract, and consumers failing to notice or take account of a free or discounted introductory period, with many assuming that the total cost per month applied over the entire length of the contract.
- The qualitative part of the research confirmed that the majority of participants believed that additional costs were 'hidden', 'hard to find', 'confusing', 'hard to read' and in some cases 'not provided.'

### **Our response**

- We believe that the evidence produced in the research indicates that a significant proportion of customers are likely to be misled or confused by current broadband pricing advertising practices and that the current situation cannot continue.
- The Consumer Protection from Unfair Trading Regulations 2008 (CPRs) which implemented the EU Unfair Commercial Practices Directive dictate that when writing the rules CAP cannot apply any greater or lesser restriction on advertising than those required by these regulations, and the ASA must ensure that it does not do so in its application of those rules. The CPRs state that a commercial practice is unfair if it 'materially distorts or is likely to materially distort the economic behaviour of the average consumer with regard to the product.' For this reason, the ASA believes that the research strongly supports our assertion that current pricing advertising practices are likely to mislead.
- From 30 May 2016, the ASA is likely to find ads which use the current approach misleading.
- Over the coming months, we will work with providers to develop a new set of standards for broadband pricing claims, which will be enforceable from that date. These will revolve around the simplification of the presentation of price information. We will then decide on a final recommended approach which we will communicate to industry and the public before 30 May 2016.
- While we remain open minded as to how pricing should be advertised to avoid misleading consumers, as an initial step, we will suggest to broadband providers that in their advertising they:
  - Provide consolidated up-front and consolidated monthly costs – without separating out line rental from other fixed monthly costs
  - Give greater prominence for the contract length and any pricing which follows an initial discount
  - Give greater prominence to up-front costs, and display all costs which are required to obtain the service