

Stakeholder code of conduct - Measuring Broadband New Zealand – July 2019

Background to the stakeholder code of conduct

1. The Commerce Commission (Commission) has set up the Measuring Broadband New Zealand testing programme (MBNZ programme) to measure the broadband performance of up to 3,000 New Zealand households.
2. The aim of the MBNZ programme is to provide consumers with independent information on broadband performance across different broadband providers, plans and technologies, to help them choose the best broadband for their household.
3. The MBNZ programme is delivered by SamKnows, a world leader in internet performance measurement, covering almost half of the world's internet population.

Purpose of the stakeholder code of conduct

4. The purpose of this code of conduct is to ensure that parties involved in the MBNZ programme act in good faith and in accordance with the principles outlined in this document.

Code of conduct

5. Tested broadband providers in the MBNZ programme agree to be bound by and act in accordance with the following principles:
 - 5.1 Comply with all data validation requirements where that data is available to the broadband provider, and respond promptly to information requests, for each testing period as outlined by the Commission and SamKnows.
 - 5.2 Act in good faith at all times and do not intentionally enhance, degrade, or tamper with test results of any individual panelist or broadband provider.
 - 5.3 Not publish any MBNZ programme data, nor make public statements based on such data:
 - 5.3.1 until the Commission releases that data or makes a public statement about the results of those tests; or
 - 5.3.2 until a year has passed from the date of collection; or
 - 5.3.3 except where expressly permitted in writing by the Commission and SamKnows;
- whichever comes first.

- 5.4 Not misrepresent the MBNZ programme data, nor use it in false or misleading information or advertising. At all times comply with the Fair Trading Act in relation to the MBNZ programme.
 - 5.5 Respect and uphold consumer rights and privacy under the MBNZ programme. At all times comply with the Consumer Guarantees Act and the Privacy Act in relation to the MBNZ programme.
 - 5.6 Ensure that its employees, agents, and representatives, as appropriate, comply with this code of conduct.
6. It shall not be a violation of principle 5.2 for a broadband provider to:
- 6.1.1 operate and manage its business, including modifying, improving or enhancing services delivered to any class of subscribers that may or may not include panelists, provided that such actions are consistent with normal business practices and in no way targets panelists under the MBNZ programme;
 - 6.1.2 address service issues for individual panelists at the request of the panelist or based on information not derived from or connected to the MBNZ programme;
 - 6.1.3 simulate or observe tests and components of the testing architecture, for academic and research purposes only, or to otherwise monitor the broadband provider's network in accordance with normal business practices, provided there is no impact on MBNZ programme data.
7. Tested broadband providers are to notify the Commission via email (regulation.branch@comcom.govt.nz) when planning any activities referred to in principle 6.1.1 which may have a material impact on the testing results of the MBNZ programme.
8. The Commission will treat all information provided under principle 7 as commercially sensitive and confidential.
9. The Commission and SamKnows agree to be bound by and act in accordance with the following principles:
- 9.1 Act in good faith at all times and ensure tested broadband providers are treated equally.
 - 9.2 Manage the MBNZ programme transparently and respond promptly to information requests from tested broadband providers.

- 9.3 Not publish any MBNZ programme data, nor make public statements based on such data until:
 - 9.3.1 that data has been through a validation process;
 - 9.3.2 the metric has enough data points to be statistically valid; and
 - 9.3.3 tested providers have been notified of the upcoming publication.
- 9.4 Respect and uphold consumer rights and privacy under the MBNZ programme. At all times comply with the Consumer Guarantees Act and the Privacy Act in relation to the MBNZ programme.
- 9.5 Ensure that its employees, agents, and representatives, as appropriate, comply with this code of conduct.
10. The Commission will monitor the activities referred to, and reported on, in principle 6.1.1, and will inform tested broadband providers if it regards the type of activity as a breach of this code of conduct.
11. SamKnows will actively monitor testing results for indications of intentional enhancements, degradation, or tampering with the results for an individual panelist or broadband providers.
12. SamKnows will make reasonable efforts to provide quality data to tested broadband providers for data validation requirements where that data is available to SamKnows, and respond promptly to information requests, for each testing period.
13. Each tested broadband provider's compliance with this code of conduct will be published alongside the MBNZ programme testing results each period.
14. Tested broadband providers who do not comply with this code of conduct may be removed from the reported results for any particular testing period.
15. Serious misconduct may result in the tested broadband provider being removed from the MBNZ programme.

Signatories

Name: Simon Thomson
Position: Head of Telecommunications
On behalf of: Commerce Commission

Name: Chris Abbott
Position: Head of Public Policy
On behalf of: Vodafone

Name: Peter Gregory
Position: Commercial Manager
On behalf of: Trustpower

Name: Johnathan Eele
Position: GM – Wholesale, Regulatory
and Commercial
On behalf of: Vocus

Name: Roxanne Robinson
Position: Head of Client Services: Government
On behalf of: SamKnows

Name: Mat Bolland
Position: Chief of Corporate Affairs
On behalf of: 2degrees

Name: Dave Simpson
Position: Industry and Regulatory Affairs
On behalf of: Spark

Name: Vaughan Baker
Position: Group Director, Government and
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On behalf of: MyRepublic