

HOUSE No. 2882

The Commonwealth of Massachusetts

PRESENTED BY:

Randy Hunt

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to promote truth in advertising relative to internet access plans.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Randy Hunt</i>	<i>5th Barnstable</i>	<i>1/16/2019</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>	<i>1/22/2019</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>1/25/2019</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>	<i>1/24/2019</i>
<i>William L. Crocker, Jr.</i>	<i>2nd Barnstable</i>	<i>1/23/2019</i>
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>1/22/2019</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>	<i>1/30/2019</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>2/1/2019</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>1/24/2019</i>
<i>Diana DiZoglio</i>	<i>First Essex</i>	<i>2/1/2019</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	<i>1/23/2019</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>1/23/2019</i>
<i>Ryan C. Fattman</i>	<i>Worcester and Norfolk</i>	<i>2/1/2019</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>	<i>1/30/2019</i>
<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>1/30/2019</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>	<i>2/1/2019</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>2/1/2019</i>

<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>1/24/2019</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>1/25/2019</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>1/31/2019</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>1/22/2019</i>
<i>Michael J. Soter</i>	<i>8th Worcester</i>	<i>1/22/2019</i>
<i>William M. Straus</i>	<i>10th Bristol</i>	<i>1/22/2019</i>

HOUSE No. 2882

By Mr. Hunt of Sandwich, a petition (accompanied by bill, House, No. 2882) of Randy Hunt and others for legislation to promote truth in advertising relative to the speed of Internet access plans. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act to promote truth in advertising relative to internet access plans.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The General Laws, as appearing in the 2016 Official edition, is hereby amended by
2 inserting after chapter 93K the following chapter:-

3 Chapter 93L. Truth in advertising relative to internet access plans.

4 Section 1. Definitions

5 As used in this section, the following words shall have the following meanings unless the
6 context clearly requires otherwise:-

7 “Internet service provider” (ISP) - a company that provides subscribers with internet
8 access. Data may be transmitted using several technologies, including, but not limited to, dial-up,
9 digital subscriber line (DSL), cable modem, wireless or dedicated high-speed interconnects.

10 “Speed plan” - an advertised internet access plan with a promised speed or range of
11 speeds, generally measured in thousands of bits per second (Mbps) or millions of bits per second
12 (Gbps).

13 “Wired service” - a connection from a modem to a user’s device via a cable.

14 “WiFi service” - a connection from a modem to a user’s device using a wireless router.

15 Section 2. Affirmative advertising obligations

16 An ISP is required to (a) describe internet speeds as wired service; (b) disclose that WiFi
17 service speeds may vary; and (c) disclose the factors that might lead actual experience to vary,
18 including based on the number of users and device limitations. This applies to all advertising and
19 marketing of speeds, including television and other commercials, website and website
20 communications, print ads, bill inserts, emails, and any other method used to solicit the sale of
21 new or upgraded internet services.

22 Section 3. Substantiating internet speeds

23 (a) An ISP must substantiate internet speeds using an industry-accepted testing
24 methodology, and discontinue any speed plan that cannot be substantiated. An ISP must
25 substantiate speed plans no less frequently than four times per year by employing a statistically
26 valid sampling methodology to determine the overall performance of each speed plan. No less
27 than eighty percent of the sampled subscribers must be experiencing wired service internet
28 speeds equal to or greater than the highest advertised speed for that speed plan between the hours
29 of 4:00 p.m. and 8:00 p.m. on weekdays. Of the sampled subscribers not meeting the above
30 threshold, each subscriber with an internet speed less than seventy-five percent of the highest

31 advertised speed for that speed plan must be offered a free service call to diagnose and repair the
32 causes of the internet speed not meeting the seventy-five percent threshold.

33 (b) The results of tests to substantiate internet speeds must be made public no less
34 frequently than every three months by the last day of the month following the most recent three-
35 month period in a report (i) published on the ISP’s website with a link prominently displayed on
36 the ISP’s homepage, (ii) submitted to the department of telecommunications and cable, and (iii)
37 submitted to the city or town clerks in the communities affected by the failure.

38 (c) All subscribers in the statistical sample that fail to meet the eighty-percent plan speed
39 requirement must be included in the following three-month sample. Failure to meet speed
40 requirements for ten or more of the same subscribers in two consecutive three-month periods will
41 be deemed an ISP’s inability to substantiate that speed plan resulting in the discontinuance of
42 that speed plan and any advertising thereof forthwith.

43 Section 4. Advertising prohibitions

44 (a) An ISP is prohibited from making unsubstantiated claims about (i) the speed required
45 for particular internet activities like streaming; (ii) the reliability of the internet service (e.g., no
46 buffering, no slowdowns); or (iii) the availability of the promised speed over WiFi.

47 (b) An ISP is also prohibited from describing internet speeds as “consistent” without fully
48 satisfying the Federal Communications Commission Consistent Speed Metric and must make
49 commercially reasonable efforts to deliver access to all online content and services featured in its
50 advertisements.

51 Section 5. Equipment

52 An ISP is required to (a) provide subscribers with equipment, or recommend equipment
53 to be purchased by subscribers, capable of delivering the advertised speed under typical network
54 conditions when they commence service; (b) promptly offer to ship or install free replacements
55 to all subscribers with inadequate equipment provided by an ISP via at least three different
56 contact methods; and (c) implement rules to prevent subscribers from initiating or upgrading
57 service without proper equipment for the chosen speed tiers.

58 Section 6. Sales and customer service training

59 An ISP must train customer service representatives and other employees to inform
60 subscribers about the factors that affect internet speeds. An ISP must also maintain a video on its
61 website to educate subscribers about various factors limiting internet speeds over WiFi.

62 Section 7. Establishment of regulations

63 The Department of Telecommunications and Cable shall promulgate regulations
64 consistent with this chapter.

65 Section 8. Attorney general enforcement

66 Whenever the attorney general has reason to believe that any business, service provider,
67 or other person is in violation of this chapter, and that proceedings would be in the public
68 interest, the attorney general may bring an action in the name of the commonwealth against such
69 person to restrain such violation by temporary restraining order or preliminary or permanent
70 injunction. A violation of this chapter shall be considered an unfair or deceptive act or practice
71 subject to the remedies of chapter 93A.