

Submission to Treasury

Curbing Lead Generation Activity

Consultation Paper - April 2026

About IAB Australia

IAB Australia is the industry body for digital advertising in Australia. We bring together members from across the digital advertising supply chain including media owners, ad tech providers, platforms and agencies to share knowledge and insights to support policy making.

Digital advertising is a critical enabler of Australia's broader media, information and tech ecosystem, funding journalism, content creation, and the delivery of online services used by millions of Australians every day.

IAB Australia is one of 47 IAB offices globally, committed to supporting the digital advertising industry and pioneering global solutions and technical standards that promote trust and improve ad experiences for consumers, advertisers and media owners.

IAB Australia has a local member base of approximately 180 organisations. The Board includes representatives from Carsales, Domain, Google, Guardian News & Media, Meta, News Corp Australia, Nine Entertainment, REA Group and Southern Cross Media.

Introduction

IAB Australia welcomes the opportunity to provide feedback on the Treasury consultation paper 'Curbing Lead Generation Activity' (**Consultation Paper**). We support the Government's objective of protecting consumers from harmful high-pressure sales tactics and inappropriate lead generation practices. We also recognise the significant consumer harm caused by the conduct alleged in the Shield and First Guardian cases.

However, we are concerned that several of the proposals in the Consultation Paper may inadvertently restrict legitimate digital advertising and impose undue burden on platforms and publishers. We urge Treasury to ensure that any reforms are carefully targeted at the actors responsible for harm, and do not inadvertently damage the broader, well-regulated advertising ecosystem.

Recommendations

1. We urge Treasury to minimise the impact of its reforms on legitimate digital advertising. Digital advertising contributes substantial amounts to the economy and provides consumers with free ad-supported content and services.
2. The final reform package should be precisely targeted at advertising content and lead generator conduct, rather than the digital advertising ecosystem more broadly.
3. Legitimate digital advertising should not be conflated with high-pressure sales tactics, misleading advertising content and inappropriate financial advice. This framing risks over-regulation of lawful commercial activity to the detriment of consumers and business.
4. Platforms and publishers should not be positioned as ‘early gatekeepers’ responsible for the actions of advertisers. This would impose a disproportionate and unworkable compliance burden on the industry, particularly in the context of programmatic advertising supply chains.
5. Responsibility for the content and legality of financial product (including superannuation) advertising should rest with the advertiser, not the publisher or platform through which it appears.
6. Treasury should consider whether improvement may be made to enforcement under the existing law before considering further regulation of the broader advertising ecosystem.
7. Reform proposals should be carefully scrutinised to ensure that existing frameworks, including the Privacy Act, Spam Act and Australian Consumer Law, are not undermined or duplicated.
8. If Treasury decides to proceed further with Reform 1, Option 1b, we would appreciate further consultation opportunities on the detail, to ensure that legitimate advertising activities are permitted and any solution is practically workable. Responsibility for compliance should sit with the advertiser.
9. The evidentiary threshold for ASIC’s stop order power should not be lowered in any way that could capture legitimate financial services advertising. Any obligation to comply with a stop order or take-down notice must sit with the advertiser, not with platforms or publishers.
10. Any reform must be proportionate and targeted.

1. Digital advertising boosts economic productivity and consumer choice

Advertising is core to IAB members’ businesses and is key to their relationship with consumers. IAB Australia supports an advertising regulatory framework that is fit for purpose and meets consumers’ expectations – enabling them to engage productively in the digital economy.

Critically, we see the dual goals of safeguarding consumers, while enabling businesses to innovate and grow, as fundamentally compatible:

- **The ad-supported digital ecosystem is central to modern society.** In June 2024, 98% of Australians had internet access at home and 99% of Australians had used at least one device to go online in the past 6 months in 2024 – up from 90% in 2019.¹
- **The digital advertising ecosystem provides significant value to consumers, the economy and society more broadly.** In 2021, the industry:
 - contributed \$94 billion to GDP (>4% of GDP) and supported 450,000 jobs (3% of jobs, 24,600 jobs directly), with SMEs receiving 61% of the sector’s benefits.
 - contributed \$55.5 billion in total consumer benefits, including \$8.8 billion in access to ad-supported digital content and services.²
- **Consumers highly value the free content and services that they receive.** Importantly, ad-supported online content and services are most important to lower-income consumers. PwC found that for consumers on annual incomes below \$50,000, the value they attribute to content and services that are currently free was roughly double that of consumers with annual incomes over \$80,000.
- **Consumers benefit from savings in transaction costs,** including:
 - \$14.7 billion in decreased prices for goods and services due to increased competition between suppliers;
 - \$5.9 billion for the use of free educational services online; and
 - 25 minutes per transaction by accessing ad-supported digital content and services before they purchase.³
- **The ad-supported online ecosystem provides significant benefits to society more broadly.** It connects communities, supports democracy through access to news content as well as providing increased access to job opportunities, education, financial information, entertainment and second hand marketplaces. PwC found that 78% indicated that digital content and services enabled them to more easily stay in contact with friends and family. In regional areas, this was as high as 81%.
- **Online advertising supports Australian businesses, particularly SMEs.** For businesses, online advertising provides an easy access route to support economic growth and productivity. This is particularly important for SMEs, with 44% of digital advertising coming from the SME sector.⁴ These businesses can now reach domestic and international consumers much more easily and at a relatively lower access cost.

¹ ACMA research - Communications and media in Australia series: *How we use the internet*, December 2024.

² PwC report - *Ad’ing value: The impact of digital advertising on the Australian economy and society* (Nov 2022) (PwC report).

³ PwC Report.

⁴ PwC Report.

- **Financial product advertising plays an important role in consumer outcomes and business competition.** By exposing consumers to the range of products and services available in the market, advertising helps them make more informed decisions and builds the financial literacy needed to evaluate products critically. Advertising fosters competition by making it easier for new entrants and innovative products to reach potential customers, encouraging incumbents to improve their offerings on price, features and service.

2. Digital advertising is not the problem

IAB Australia acknowledges the serious consumer harm documented in the Shield and First Guardian cases. The conduct alleged in those cases — lead generators directing consumers towards inappropriate superannuation switching advice — is serious.

We support the Assistant Treasurer’s stated objective ‘*to ensure consumers can be properly informed before making the decision to switch what are now large sums of superannuation savings, and more protected when they switch*’.⁵

However, in order to establish an effective policy framework, it is important to be precise about what exactly caused the harm. There appear to be three key issues:

- **The conduct of lead generators** — the high-pressure sales tactics, cold calling, consumer data collection and referral arrangements that directed consumers toward inappropriate financial advice;
- **The advertising content placed before consumers** — misleading or deceptive representations about superannuation products, framed as health checks or comparison tools, that obscured their true commercial purpose;
- **Misleading financial advice** – inappropriate advice persuading consumers to switch superannuation products.

These issues concern advertising content, lead generator conduct and financial advice. **These are activities over which the digital advertising industry has limited control.**

The Paper’s framing, however, treats digital advertising itself as a source of risk, stating:

“Click-bait advertisements are commonly used to attract consumers to websites or online forms... Once a consumer enters this funnel, they may be exposed to increasingly targeted and high-pressure sales tactics, increasing the likelihood of consumer harm.”

This conflation risks producing reforms that are poorly targeted and do not effectively address the problem of bad actors, inappropriate financial advice and misleading advertising content.

⁵ The Hon Daniel Mulino media release, 10 December 2025.

The overwhelming majority of digital advertising in Australia is lawful, transparent, and subject to regulatory oversight. Digital advertising funds the free flow of news, information, creative content and ad supported services on which Australians rely.

Reforms that treat digital advertising as both responsible for, and capable of remedying, the problem are misguided. They risk stifling legitimate commercial activity, reducing choice for consumers, and imposing costs on publishers and platforms, who have no control over the advertising content or the provision of subsequent financial advice.

We urge Treasury to ensure that the final reform package is precisely targeted at advertising content and lead generator conduct, rather than extending obligations to the digital advertising ecosystem more broadly.

3. Responsibility for the advertising content must sit with the advertiser

IAB Australia is particularly concerned about the suggestion that publishers and platforms should act as 'early gatekeepers'.⁶

Responsibility for the content and legality of financial product advertising should rest with the advertiser, not the publisher or platform through which it appears, for the following reasons:

(i) The Corporations Act and ASIC Act recognise that advertisers have primary responsibility

The *Corporations Act 2001* (**Corporations Act**) and the *ASIC Act 2001* (**ASIC Act**) both make it clear that the obligation to ensure advertising is not misleading or deceptive falls on the product issuer or promoter rather than the publisher or platform. This recognises that the advertiser controls the message and holds the information necessary to substantiate any claims made.

ASIC's Regulatory Guide 234 recognises that '*the primary responsibility for advertising material rests with the organisation placing the advertisement*'.⁷

The Corporations Act recognises the limited control that publishers have over advertising content, by providing a defence '*if the publisher received the advertisement for publication in the ordinary course of business and did not know, and had no reason to believe, that the publication would amount to a defence*'.⁸

(ii) Modern programmatic advertising supply chains mean that publishers and platforms have limited control over the content of adverts

ASIC's Regulatory Guide 234 was written in 2012 yet still recognised the limited control that publishers and platforms have over advertising content.

⁶ Page 40, Consultation Paper.

⁷ ASIC RG 234.29.

⁸ ASIC RG 234.202, referencing s1044A Corporations Act 2001; and s12GI(4), ASIC Act.

The logic of assigning responsibility to advertisers applies with even greater force in the context of modern programmatic advertising, where publishers and platforms have no meaningful ability to review or approve individual advertisements before they are served.

Programmatic placement operates through automated, real-time bidding systems in which ad inventory is bought and sold algorithmically at massive scale and speed. Publishers and platforms cannot practically assess the content or credentials of every advertisement that appears on its platform.

Australian law recognises this in analogous contexts. For example, section 33H(6) of the *NSW Betting and Racing Act 1998* provides persons with a defence against liability for unlawful betting advertising where the advertisement is in the form provided by or on behalf of a betting service provider (i.e. the advertiser).

Imposing liability on publishers and platforms for advertiser content that they cannot control would be inconsistent with existing regulatory regimes under the Corporations Act, ASIC Act and the regulation of other sectors. **Most significantly, publishers' and platforms' inability to control advertising content would make any reforms based around their role as 'early gatekeepers' practically ineffective.**

Responsibility for the content and legality of financial product advertising should rest with the advertiser, not the publisher or platform through which it appears.

4. Superannuation advertising is already extensively regulated – is there a gap in enforcement?

Misleading superannuation advertising and inappropriate lead generation is already regulated by a comprehensive set of frameworks. ASIC Regulatory Guide RG 234 states that:

'We encourage promoters to create advertisements that not only meet the minimum requirement of not being misleading or deceptive but that also help consumers make appropriate decisions'.⁹

Before introducing new obligations, Treasury should assess whether the problem is a gap in the law or a gap in enforcement.

Corporations Act 2001 and ASIC Act 2001

Advertising connected with superannuation is subject to the ASIC Act's prohibition on misleading or deceptive conduct, unconscionable conduct, and false or misleading representations in connection with financial services.

The Corporations Act contains equivalent prohibitions. ASIC already has stop order powers to prohibit advertisements that are misleading, deceptive or omit material information. Accordingly, the primary regulatory tools for addressing the content of superannuation advertising sit with ASIC.

AFS Licensing Regime

⁹ ASIC RG 234.6.

Any person who provides a financial service in relation to superannuation (including conduct that could reasonably be regarded as intended to influence a decision about a superannuation product) must hold an AFS licence. Where lead generation activity crosses from factual information into conduct intended to influence a financial decision, it is already captured by the existing licensing regime.

The Consultation Paper itself acknowledges this, recognising that the issue is uncertainty at the margins and difficulty of enforcement, rather than an absence of law.

Superannuation Industry (Supervision) Act 1993

The SIS Act and its regulations impose specific obligations on superannuation trustees in relation to member communications and the promotion of funds. It is supervised by APRA.

To the extent that advertising makes representations about specific superannuation fund performance or features, APRA's framework is engaged.

Privacy Act 1988 and Spam Act 2003

The collection and use of personal information gathered through lead generation advertising, including consent requirements for direct marketing and restrictions on electronic marketing, is regulated under the Privacy Act and Spam Act.

Introducing duplicative obligations in financial services legislation risks creating inconsistent standards and may undermine existing principles regarding the transfer of data to third parties.

Australian Consumer Law

The ACL prohibits misleading or deceptive conduct, false representations, and unconscionable conduct across the economy. It applies to superannuation advertising to the extent conduct is not already captured by the ASIC Act framework.

The ACCC and state consumer protection regulators can take action under the ACL.

Industry Codes

The AANA Code of Ethics and associated advertising industry codes apply to advertising content generally, including financial advertising, covering accuracy and community standards.

This is a comprehensive regulatory framework. The two key problems identified in the Paper — lead generator conduct and misleading advertiser content are already regulated by ASIC and APRA. These are enforcement challenges rather than gaps in the law.

We recommend that Treasury considers whether improvement may be made to enforcement under the existing law before considering further regulation of the broader advertising eco-system.

5. Response to specific reform proposals

- (i) **Reform 1, Option 1b – banning unlicensed communications to consumers about superannuation**

IAB Australia understands that this proposal would prevent any unlicensed person from providing information to consumers about superannuation for any commercial benefit.

While we support the intention of ensuring that consumers receive only accurate information about superannuation products, we do not agree that a blanket ban covering an entire category would be effective. As the Consultation Paper itself recognises:

‘such a prohibition could also capture a broad range of activities currently undertaken by unlicensed parties, including certain forms of general marketing or educational content that are not presently regulated as financial services’.

If Treasury decides to proceed further with this option, we would appreciate further consultation opportunities on the detail, to ensure that legitimate advertising activities are permitted and any solution is practically workable. Responsibility for compliance must sit with the advertiser.

(ii) Reform 4, Option 4a – Require superannuation advertisements to display AFS licence numbers

IAB Australia does not oppose in principle a requirement for superannuation advertisements to display an AFS licence number. Greater transparency about who is responsible for a financial advertisement is a reasonable consumer protection measure and could assist ASIC in identifying non-compliant actors.

However, we have significant concerns about how this obligation is framed in the Consultation Paper, and in particular the suggestion that platforms and publishers should be positioned as ‘early gatekeepers’ responsible for verifying AFS licence compliance before carrying advertisements.

The obligation must rest with the advertiser

Any requirement to include an AFS licence number in superannuation advertising must sit with the advertiser as the party responsible for the content of the advertisement. Platforms and publishers are not positioned to assess the regulatory compliance of financial services advertisers at scale, particularly when advertising is placed programmatically in split second transactions.

Imposing gatekeeper obligations on publishers would:

- require platforms and publishers to make complex legal assessments about whether an advertiser holds a valid AFS licence and whether that licence covers the advertised activity;
- expose publishers and platforms to liability for the conduct of advertisers over which they have no control;
- create significant operational costs and compliance burdens, particularly for smaller publishers and platforms; and
- stifle legitimate financial advertising, including by licensed entities, where publishers and platforms are uncertain about compliance or where the burden of compliance outweighs the commercial benefit of publishing the adverts.

Implementation considerations

If an AFS licence display requirement is introduced, IAB Australia recommends that:

- the obligation be placed clearly on the advertiser, with ASIC empowered to take action against non-compliant advertisers directly;

- platforms and publishers be provided with protection where they carry an advertisement supplied to them by a third party;
- workable alternatives be provided for platforms that only have audio content (e.g. podcasts); and
- sufficient lead time be provided for implementation.

(iii) **Reform 4, Option 4b — expand ASIC’s stop order power to take down financial advertisements**

IAB Australia understands the policy intent behind expanding ASIC’s stop order power to enable faster intervention where financial advertising is causing consumer harm.

However, we have significant concerns about the proposal to lower the evidentiary threshold for issuing a stop order, including the suggestion that ASIC be able to issue a stop order where it ‘reasonably believes’ an advertisement ‘may result in substantial consumer harm’. This is likely to cause uncertainty and may inadvertently capture legitimate advertising.

Concerns about the proposed threshold

- The proposed threshold — that ASIC ‘reasonably believes’ an advertisement ‘may’ result in harm — is highly subjective and could be applied to a broad range of advertising that is not in fact harmful.
- Stop orders have immediate and serious commercial consequences for advertisers and publishers. A low evidentiary threshold without adequate procedural safeguards risks causing significant harm to legitimate businesses.
- The Consultation Paper states that this is intended to ‘*better reflect the specific risk posed by digital advertising, where advertisements can be disseminated rapidly and at scale.*’ This framing treats the speed and scale of digital advertising as inherently problematic, rather than recognising that these same features also deliver significant consumer benefit.

Take down obligation must sit with advertisers

Any obligation to comply with a stop order or take-down notice must sit with the advertiser, not with platforms or publishers.

6. Ensuring Reform Is Proportionate and Targeted

IAB Australia supports strong consumer protection in financial services advertising. We recognise that harmful lead generation practices may cause real harm to Australians.

However, we urge Treasury to ensure that reform in this area is:

- **Targeted** at the specific actors responsible for harm — primarily lead generators and the financial advisers and product issuers that engage them — rather than the broader digital advertising ecosystem.
- **Non-duplicative** of existing regulatory frameworks, including those under the Privacy Act, Spam Act, and Australian Consumer Law.

- **Proportionate** in the obligations it places on platforms, publishers, and other intermediaries who are not responsible for the content of financial advertisements.
- **Workable** in practice, with sufficient guidance, lead time, and protections for publishers/platforms acting in good faith.

IAB Australia would welcome the opportunity to discuss these issues further with Treasury and to participate in any ongoing industry consultation, particularly if the proposed reforms are progressed.

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