



The advertising regulation of lead generation

What happens next? - 25th May, 2022

The Advertising Standards Authority (ASA) released its [2021 annual report](#) last week and the title, 'scaling up ad regulation', gave a clear indication of the regulatory direction of travel. The ASA are unquestionably doing a much better job than they were three years ago and so we've taken an extra critical eye at this triumphant report to evaluate the veracity of their claims.

In its own words the ASA intends to:

- Crack down on irresponsible financial ads
- Escalate sanctions against non-compliant influencers
- Using data science and AI to scale up ad regulation

To really understand where the ASA is heading, we need to go deeper than the headlines; its glossy and colourful annual report should be read in conjunction with its most recent ruling and interventions.

This article will argue there is a pattern emerging of the types of advertising the advertising regulator is willing to rule against and this should in turn inform the strategies of lead sellers and buyers alike. If you generate or buy leads, you can use this briefing to futureproof your business and advertising strategy.

'Acting for purposes outside their trade'

The ASA report makes it clear that it intends to rebalance its regulation 'to be more proactive'. In 2021 there were 20,456 ads that were amended or withdrawn as a result of ASA intervention and the ambition of the ASA annual report is to significantly increase this number.

This is welcome news for anyone with an interest in creating a better standard of financial services lead generation. Rather than having to rely on consumers to themselves understand they've been tricked and then report the advert, the ASA are promising to get onto the front foot.



We can see some of this activity and increased focus in the shape of ASA rulings over the course of the last year. All the following rulings are lead generation related:

ASA ruling on CheaperWaste Ltd: 18th May 2022

ASA ruling on StillBloom Ltd : 13th April, 2022

ASA ruling on Verisure Services: 17th November, 2021

ASA Ruling on Ashteck Media Ltd: 2nd June 2021

ASA ruling on Flexible Digital Solutions: 7th April, 2021

The ASA is becoming increasingly interested in websites that pretend they are providing a service rather than an introduction. In all six of the rulings cited above, this statement features in way or another.:

“We told xxxxx not to claim or imply that they were acting for purposes outside their trade or business and to make clear the commercial intent of their marketing”.

This is going to be increasingly problematic for lead generators who use phrases like “Get a free quote”, “compare and save” or “try our calculator” when the sole purpose of the form is to create a lead sold to a single broker or provider of a service. In black and white, the ASA will consider that messaging a breach of its rules.

‘The overall impression is what counts’

If we follow the intended logic of the ASA rulings cited above, the regulator wants lead generators to openly declare that they intend to introduce the consumer via a paid referral process:

“We told Marketing Position Ltd and Cheaperwaste to ensure they did not misleadingly imply that they were acting for purposes outside their trade, for example by presenting websites designed to generate leads for other companies as independent comparison websites. We also told them to ensure that ads accurately presented the nature of the services offered and did not misleadingly imply that they were price comparison services if that was not the case”

ASA ruling on CheaperWaste Ltd: 18th May 2022



The precedent is as follows: If your sole reason for existing is to introduce a consumer to a provider of that service (to generate a lead), then say so. This has always been the grey area for lead generation and many lead firms fairly point out that they would indeed do this, if the regulation levelled the playing field for everyone.

The ASA has a particular issue with the use of ‘comparison’ and the way that some lead generators use ‘compare’ as a call to action. In March 2022 the ASA clarified its guidance about the use of URLs that suggest a comparison service, [here](#). This is very, very significant and suggests that the regulator will take a much closer look at any website with the word ‘compare’, ‘comparing’ or ‘comparison’ in its title.

“We considered that the website presented itself as a pension comparison site from the name and url ‘www.comparing-pensions.co.uk’ and the options offered on the site such as a “free pension health check report” and a “free call from ... FCA regulated company”. However, Centurius Ltd confirmed that the website did not compare pensions”

ASA ruling on Smart Pension Ltd: 13th September 2017

Making rulings stick

One area Contact State believes the ASA are still failing in is enforcing their own rulings to ensure adverts are then removed. For large marketing firms and brands who are eager to comply with British law, brand damage caused by an ASA ruling acts as a deterrent. When it comes to ‘bedroom affiliates’ and offshore lead generation firms, the ASA is simply seen as just a bit annoying.

Take for example the ruling against CompareHeaters.com in **Feb 2018**. The offending website is still running with all of the same complaints the ASA levied at the time and the director has subsequently appeared on the ASA’s non-compliant person list, [here](#). Is that really it? The most significant censure the ASA has at its disposal is to add the director of the business to a naughty list? This feels desperately underwhelming.



Contact State has observed that there is a trend in lead generation to avoid the consequences of an ASA ruling, by simply renaming your business or moving the assets of your business into another company altogether. Contact State believes that an ASA ruling should be a permanent red flag that lives with the Director of a business on Companies house for at least three years.

Where now?

Regulators are not very good at investing in technology and so the promises of a magic 'AI' tool that is going to miraculously spot and remove misleading adverts before they become a problem, is not the solution. It feels like a piece of PR puff to grab headlines and attention.

The ASA's work at getting to grips with the reality of online lead generation, however, is much more promising and is evidenced by the rulings that are being handed down. For example, there has been a marked shift in attention and intervention for lead generation adverts in the funeral planning, life insurance and equity release industries.

If you're a lead generator, it's time to really rethink how you use the concept of comparison based on the service that you're providing. The ASA is going to make you define the nature of the comparison you claim to provide and if you're relying on a lead buying partner to do that comparison for you, you need to make that relationship crystal clear.

If you're a lead buyer, you should be concerned with precedent of accountability that the ASA is enforcing on lead generation adverts. The ASA held the lead buyer [Verisure Services](#) accountable for the actions of the lead generator Social Blue. The same happened with [CheaperWaste Ltd](#) and its lead generator Marketing Position and [Flexible Digital Solutions](#) and its lead affiliate partner.

There is no quick, easy fix for lead generation and the 'new' rules will be created by ruling precedent rather than a guidebook of what to do and what not to do. Ultimately, Contact State sees the evolution of the ASA's role and improvement as extremely positive which will lead to a better and fairer standard of online lead generation.

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