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# MANUFACTURED CONSENT

Stopping the harm from  
manipulative lead generation

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### About Consumer Action

Consumer Action is an independent, not-for profit consumer organisation with deep expertise in consumer and consumer credit laws, policy and direct knowledge of people's experience of modern markets. We work for a just marketplace, where people have power and business plays fair. We make life easier for people experiencing vulnerability and disadvantage in Australia, through financial counselling, legal advice, legal representation, policy work and campaigns. Based in Melbourne, our direct services assist Victorians and our advocacy supports a just marketplace for all Australians.

Consumer Action respectfully acknowledges the Wurundjeri People of the Kulin Nation as the Traditional Custodians of the land on which we are located. We pay our utmost respect and give thanks to their Elders both past and present who continue to forge the path ahead for emerging leaders.

For over 60,000 years Aboriginal and Torres Strait Islander people treaded lightly upon this land, caring for country and walking with the spirits of their ancestors as they shaped its lands, waters, creatures and plants. We acknowledge the strength and resilience of the Aboriginal and Torres Strait Islander people and are humbled by the love and kindness they have shown in recent times when their own place within modern Australia was called to question.

At Consumer Action we acknowledge our own journey towards cultural safety and reconciliation. Through our learnings and reflections from talking to and working with some incredible First Nations people, we are learning the best outcomes are achieved when we adopt culturally safe practices that create time and space for First Nations people to share their stories. We are committed to understanding better the consumer, credit and debt issues that First Nations people are faced with. We work alongside First Nations experts in identifying the systemic and policy changes that will achieve a more equitable market for First Nations people.

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## Executive Summary

Lead generation – the process of identifying people as potential sales targets and harvesting their contact details for future sales pitches – has become a significant source of consumer harm. Lead generation activity is commonplace in Australia’s digital economy, and occurs at arm’s length from businesses making a sale. It can serve to manufacture consent to an ‘unsolicited’ sale and avoid the limited protections in the Australian Consumer Law and anti-hawking protections in financial services laws.

Manipulative lead generation is the collection and sale of consumers’ personal information for marketing – but without people understanding what contact they’ve ‘consented’ to and which companies can access their information.

Lead Generation is not “just advertising” and does not provide consumers with genuine choice between competing offers. Instead, lead generation sorts and steers consumers through systems designed to manipulate them towards decisions they may not otherwise have made. The potential for harm has been made abundantly clear from the recent collapse of the First Guardian and Shield Master Funds. Around 11,000 Australians lost more than \$1 billion, after lead generators referred victims to financial advisors who convinced investors to move their retirement savings into the high-risk funds.

While lead generation is not a new practice, the explosion of digital marketing has allowed lead generators to significantly grow their reach. As we increasingly conduct much of our lives online, lead generation has become a problem we need to grapple with – including banning it where the risks are too high.

From what we see on our frontlines, lead generation is often involved in aggressive, high-pressure sales of unaffordable or poor-quality products and services. People’s personal data is also exposed to risk of leaks and misuse as a result. Lead generation activity cuts across marketing, privacy, and consumer law, creating a high-stakes regulatory challenge that needs coordinated action from agencies and legislators.

In this paper, we examine how to effectively reduce the harm caused by lead generation. Drawing on casework from Consumer Action Law Centre (**Consumer Action**) and other community legal centres, as well as input from stakeholder consultation, we outline the harms caused by manipulative lead generation, identify gaps in Australia’s current regulatory approach, and present proposed reforms.

We propose a comprehensive approach to regulating lead generation, including:

1. banning lead generation in high-risk sectors;
2. expanding the Unfair Trading Practices (**UTP**) ban to cover financial products and services and explicitly name lead generation in the ‘grey’ list
3. regulating lead generation advertising on digital platforms; and
4. strengthening consent and disclosure requirements.

Implementing these reforms will require coordinated regulatory responses, legislative change, and increased resourcing of the Australian Competition and Consumer Commission (**ACCC**) and other regulators for compliance and enforcement.

## 1. Introduction

The internet is awash with ads. In Australia, investment in online advertising for FY25 totalled \$17.2 billion – an increase of 10% compared to the previous year<sup>1</sup>.

Amid this onslaught of ads and marketing sits lead generation. Maybe you have seen an ad offering to 'check your eligibility' for a government rebate for solar panels, to download a prospectus for an online course, or to compare your superannuation's performance against other funds. Most people don't realise that the moment they click on that button to check their eligibility, they are caught in lead generation. Their details will be captured, packaged up and sold to businesses looking to convert that click into a sale.

Lead generation can be defined as 'the process of identifying people as potential sales targets (or 'leads')<sup>2</sup>. This may be undertaken by a business directly, but often involves businesses contracting a third party to generate new leads for them, or purchasing a list of previously obtained leads.

Unlike traditional marketing, where the link between an advertisement and the business selling a product or service is clear, lead generation operates within a complex ecosystem of marketers, data brokers, platforms, and software providers, with potentially multiple intermediaries between the consumer and the end business seeking to sell to them. Essentially, the lead generator's 'product' is the consumer information that they trade for commercial gain. However, this fact is obscured from the consumer.

Consumers may appear to have 'consented' to future contact, but in reality they won't have been provided all the information or will have been manipulated into doing so. Marketing consent may be buried in terms and conditions and/or hidden behind unrelated online activities, such as competition entry or completion of an online comparison tool.

Once a consumer's details have been captured, they are subsequently contacted by businesses who, in our clients' experience, often use aggressive, high-pressure tactics to make a sale. In many instances a consumer will never even have heard of, or engaged with, the business making the sales approach. What started as direct outreach, often through door-knocking or cold-calling, or via print ads, has been turbocharged by the rise of online marketing, enabling lead generators to capture consumer details at industrial scale through tools like social media, search advertising and email campaigns. Whereas traditionally marketing and information supports consumer choice, in lead generation information is manipulated for the purpose of 'warming up the consumer' for a high-pressure sale.

Lead generation through supposed 'comparison tools' provides a useful example, that many people will have experienced first-hand. A consumer enters their personal information into a comparison website to generate options that the website suggests are 'suitable' for the consumer's purposes. For example, a non-government website comparing life insurance products or energy plans that may not show every product available (likely only businesses that paid to be part of the comparison), but it will use the information the consumer has provided to generate options, potentially including a ranking of the best offer for the customer. Marketing and advertising are tailored to the consumer through this process and if it ended with the options generated for the consumer to pursue, and the personal information being held, used and destroyed according to privacy laws, there would be limited risk.

However, what happens next is pressure and manipulation to warm up the consumer for a sale, by the website or a business advertising on it. If you have used a comparison website you likely have experienced being caught off-

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<sup>1</sup> IAB Australia (28 Aug 2025), "Online Advertising Market Reaches \$17.2 billion in FY2025", [link](#), accessed 16 Dec 2025.

<sup>2</sup> Australian Competition and Consumer Commission (June 2025), *Unsolicited selling and lead generation: Consultation paper*, [link](#), p.15.

guard by a phone call soon after completing such a form, with a skilled salesperson pushing you down a path to make a purchase or sign up to a service. It's unclear who your personal information is shared with, whether it's stored and destroyed according to privacy laws. Consent may not feature through this process

While the opacity of the lead generation industry makes its size difficult to quantify, we are clearly seeing the impacts of its presence in Australia. Lead generation was a key ingredient in the recent collapse of the First Guardian and Shield Master Funds, with lead generators referring many of the people who lost money to the financial advisors who convinced them to invest in First Guardian or Shield<sup>3</sup>. In total, about 11,000 people have lost more than \$1 billion due to the collapse<sup>4</sup>, highlighting the significant and life-changing harm that can result from lead generation activity.

Lead generation may well serve legitimate purposes by connecting interested consumers with relevant businesses, however, far too often we observe examples in the Australian market of these practices being used to circumvent consumer protections, particularly those related to unsolicited selling.

Although the Australian Consumer Law (ACL) applies to goods and services sold via lead generation, the practice of lead generation may not be subject to extra requirements for unsolicited sales under the ACL 'unsolicited consumer agreements' provisions. An 'unsolicited consumer agreement' under the ACL is one where a consumer did not 'invite' the dealer to supply the goods or services (e.g. door-knocking households to sell goods or services).<sup>5</sup> Lead generation creates the false appearance of a consumer 'inviting' contact, therefore a sale not being 'unsolicited', while exposing consumers to many of the harms associated with traditional unsolicited sales.<sup>6</sup>

Our analysis in this paper draws on multiple sources, including:

- Consumer Action's March 2025 designated complaint to the Australian Competition and Consumer Commission (ACCC) on unsolicited selling<sup>7</sup>;
- Consumer Action's submission to the ACCC's review into unsolicited selling and lead generation, which was prompted by Consumer Action's designated complaint,<sup>8</sup>
- Insights from a sector-wide workshop hosted by Consumer Action in late 2025, that brought together consumer advocates, regulators and academics to discuss challenges with lead generation and test the feasibility of potential regulatory responses, and
- the joint consumer submission to Treasury's consultation on curbing lead generation in superannuation (led by Consumer Action)<sup>9</sup> and Treasury's analysis in its Consultation Paper.<sup>10</sup>

This work is underpinned by the extensive casework experience of Consumer Action and other community legal centres, who have for many years been assisting consumers harmed by manipulative lead generation and high-pressure unsolicited sales.

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<sup>3</sup> Super Consumers Australia (12 Sep 2025), "What you need to know about Shield and First Guardian Master Funds - superconsumers.com.au" [link](#), accessed 9 Dec 2025.

<sup>4</sup> ABC News (19 Sep 2025), "First Guardian, Shield superannuation disasters expose deep flaws in Australia's \$4.3 trillion retirement system" [link](#), accessed 9 Dec 2025.

<sup>5</sup> ACL Pt 3-2 Div 2 s 69.

<sup>6</sup> For an overview of the harms associated with unsolicited sales, see our Designated Complaint ([link](#)), particularly the section 'Details of consumer harm' on pages 18-21.

<sup>7</sup> Consumer Action Law Centre (Mar 2025), *Designated complaint: Unsolicited selling*, [link](#).

<sup>8</sup> ACCC (June 2025), *Unsolicited selling and lead generation: Consultation paper*, [link](#).

<sup>9</sup> Consumer Action Law Centre, Super Consumers Australia, Financial Rights Legal Centre, Mob Strong Debt Help, Financial Counselling Australia, Consumer Credit Legal Service WA and Consumer Policy Research Centre (May 2026) *Joint consumer submission: Curbing lead generation activity*, [link](#).

<sup>10</sup> The Treasury (April 2026), *Curbing lead generation activity: Consultation paper*, [link](#).

The paper opens with an overview of the harms associated with lead generation, followed by an analysis of the current regulatory framework and identifies some of the key issues that need to be addressed through reform. It then presents our proposed reforms, including the key benefits and implementation considerations for each.

## 2. Consumer harms associated with lead generation

### Financial harm

Lead generation can cause significant financial harm to people, particularly when businesses are selling expensive goods, there is the risk of losing large sums of money, the purchase involves accumulating debt, or consumers are on low incomes.

The collapse of the First Guardian and Shield Master Funds is a devastating illustration of how significant the financial harm linked to lead generation can be, with thousands of Australians having their retirement savings wiped out after being pushed to invest in mismanaged, high-risk schemes. People have lost tens or hundreds of thousands in savings, with some investors losing more than \$1 million.<sup>11</sup>

From our own experience delivering frontline services to clients, we see many people who are pressured into making purchases they do not need, or cannot afford, as a result of sales following lead generation. Often, these sales involved linked credit, deepening the financial impact on consumers as they must pay additional fees and charges on top of the purchase price of the item being sold. As an example of this financial harm consider the case of "Gina" (name changed).

#### *Gina's story*

Gina contacted our lawyers after incurring significant debt tied to lead generation advertising.

Initially contacted after responding to an online ad purporting to check her eligibility for a government rebate, Gina was instead visited at her home by a salesperson who subjected her to an aggressive sales pitch for solar panels. The salesperson also provided Gina with false assurances about government subsidies, bills savings and a 'free' battery.

Under pressure, Gina relented and signed a contract for rooftop solar, without being told she was being entered into a Buy Now Pay Later (**BNPL**) arrangement. The repayment amounts turned out to be much higher than promised and were more than Gina could afford. When Gina attempted to cancel within the cooling-off period, she faced multiple barriers put in her way by the retailer.

Despite the BNPL provider eventually agreeing to cancel her contract with them (after much effort on Gina's part), debt collectors acting on behalf of the solar company started pursuing her for the cost of the solar panels, prolonging Gina's financial stress.

### Emotional and psychological harm

The psychological impact of lead generation can be as severe as the financial harm, though often less visible. High-pressure sales tactics create feelings of manipulation and violation of privacy, feelings that intensify when consumers realise their personal information has been captured and sold without meaningful consent.

<sup>11</sup> ABC News (19 Sep 2025), "First Guardian, Shield superannuation disasters expose deep flaws in Australia's \$4.3 trillion retirement system" [link](#), accessed 9 Dec 2025.

People experiencing vulnerability appear to be disproportionately affected. We have assisted older people and people living with disabilities who report feeling harassed and unsafe in their homes after being subject to high-pressure sales following lead generation. Gina's case above captures the consumer experience and difficulty of navigating the way out of a manipulative lead generation and unsolicited sales contract.

Misleading practices erode trust in broader marketing or awareness raising communications, creating disengagement that may prevent people from accessing useful, legitimate goods and services. Lead generators feigning links to government programs cause reputational damage to these programs (and the products they cover), undermining people's trust in both business and government.

## **Privacy risks and data exploitation**

Privacy harms arising from lead generation persist long after data is initially captured. Consumers misled into completing online forms – believing they are for comparison tools, or eligibility checks for government programs – rarely understand their data will be sold to multiple businesses.

The opacity of data flows in lead generation amplifies this risk. A consumer completing a single online form may find themselves contacted by numerous businesses, with no clear link to their original action. This makes it extremely difficult for the consumer to work out how their data was obtained, and who now has it. Furthermore, this data harvesting and trading creates pathways for identity theft, scams and fraud, as personal and financial information collected circulates through databases that may lack adequate security or be deliberately exploited.<sup>12</sup> Consumer advocates have seen examples where First Nations people's information is cross-referenced with other sources, such as ABS data, to identify groups of consumers to target. This can increase people's vulnerability to manipulative and harmful lead generation tactics. Consumer advocates have seen this risk extend to many financial products, including debt management services, Buy Now Pay Later Products and short-term loans in First Nations communities.

Once captured, personal information is effectively uncontrollable. Unlike other situations where privacy breaches or misuse can be traced to specific businesses, lead generation's dispersed, opaque nature makes accountability nearly impossible. Consumers can't effectively opt out of marketing when they can't identify who holds their data or how it was obtained, and it becomes difficult for regulators to take action against lead generators due to the information asymmetry involved, wherein the regulator cannot readily obtain the information or evidence needed to identify potential regulatory breaches or support enforcement action.

## **Substandard products and physical risk**

Another issue we encounter in our work with consumers is the intersection of lead generation with the sale of substandard products and poor installations. In many of the cases we've encountered involving lead generation and sale of solar panels, the consumer's system is incorrectly installed and not connected to the power grid. This demonstrates that businesses engaging in questionable lead generation practices and pressure selling are not being judicious of the quality of products they are selling and are not acting in the interest of the consumer.

The potential for harm associated with lead-generation driven sales is amplified in the context of the growth of lithium-ion batteries in home energy storage products. Faulty products or poor installations expose households to significant fire risks that could result in property damage, serious injury or death. The Western Australian

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<sup>12</sup> Australian Government Australian Institute of Criminology, (2023), 'Statistical Bulletin 42: Identity crime and misuse in Australia 2023,' [link](#), accessed 24 Jun 2026.

Department of Fire and Emergency Services noted last year that lithium-ion batteries have become the fastest growing home fire risk in the state, with a fire caused by one of these batteries almost every second day.<sup>13</sup>

### 3. Current regulatory framework

Existing Australian regulation that may apply to lead generation is spread across multiple laws and agencies, each with their own jurisdiction, priorities and enforcement powers. While regulatory complexity is not inherently problematic (and may be appropriate given the economy-wide nature of lead generation activity), the dispersed nature of regulation does create potential gaps and overlaps that lead generators can exploit.

#### Australian Consumer Law

The ACCC holds primary responsibility for enforcing the ACL, which sets out consumers' rights and the obligations on businesses.<sup>14</sup> The Australian Securities and Investments Commission (**ASIC**) enforces equivalent laws for financial products and services.<sup>15</sup> The ACL includes prohibitions on misleading or deceptive, and unconscionable, conduct and contains provisions regulating unsolicited consumer agreements.<sup>16</sup> While these general provisions apply to lead generators and businesses purchasing leads, enforcement may be challenging. Proving breaches of general ACL provisions requires a high threshold to be met. For instance, proving misleading or deceptive conduct in practice requires the ACCC to show that the business made a representation that had a tendency to lead someone to error in the whole of the circumstances.

In addition, ACL provisions relating to 'unsolicited consumer agreements' may not capture these sales. When a seller operates outside a place of business, or over the phone, and a consumer did not 'invite' the seller to negotiate the sale of particular goods or services, the seller must comply with the 'unsolicited consumer agreements' requirements of the ACL.<sup>17</sup> For example, the seller must state why they are there, inform the consumer of their cooling off rights, and leave immediately when the consumer asks them to.<sup>18</sup> The lead generation sales model confects a consumer 'invitation', and can deprive the consumer of the protections from unsolicited selling, even if they never knowingly invited the seller to contact them.

There are exceptions to unsolicited selling laws for consumer agreements, which are renewals or of the same kind, that are intended for genuine, pre-existing relationships between consumers and businesses.<sup>19</sup>

#### Anti-hawking prohibition

ASIC oversees the hawking prohibition in the Corporations Act 2001, which bans unsolicited, real-time offers of financial products to retail clients.<sup>20</sup> However, as with the ACL, lead generation may attempt to circumvent this prohibition by manufacturing consent, converting prohibited unsolicited contact into ostensibly solicited approaches, as seen in the lead generation activity involved in the Shield and First Guardian collapses.

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<sup>13</sup> Department of Local Government, Industry Regulation and Safety (23 January 2025), "Commissioner's Blog: Sounding the alarm on the dangers of lithium-ion batteries" [link](#), accessed 13 Feb 2026.

<sup>14</sup> ACL, Competition and Consumer Act 2010 Sch 2.

<sup>15</sup> The Australian Securities and Investments Commission Act 2001 includes equivalent consumer protections for financial products and services, Pt 2 Div 2.

<sup>16</sup> Australian Competition and Consumer Commission (Nov 2021), *Consumer vulnerability: A business guide to the Australian Consumer Law*, [link](#), pp. 4-8.

<sup>17</sup> ACL Pt 3-2 Div 2.

<sup>18</sup> ACL s 82(3).

<sup>19</sup> Competition and Consumer Regulations 2010 cl 81.

<sup>20</sup> Australian Securities and Investment Commission (Sep 2021), *Regulatory Guide 38: The hawking prohibition*, [link](#), p.5.

## Privacy regulation

The Office of the Australian Information Commissioner (**OAIC**) enforces the Privacy Act 1988 and Australian Privacy Principles (**APPs**), which govern the collection, use, and disclosure of personal information.<sup>21</sup> For instance, APP 3 requires collection of personal information only when reasonably necessary, APP 5 requires notification about information collection and use, and APP 7 governs direct marketing. While these principles should constrain lead generation in theory, ensuring compliance in practice is challenging. Businesses have designed privacy notices to encourage consumers to click-through without reading, in practice manufacturing consent that undermines their obligation to obtain informed and voluntary consent.

## Telemarketing and spam

The Australian Communications and Media Authority (**ACMA**) is responsible for administering the Do Not Call Register Act 2006 and Spam Act 2003, which restrict unwanted telemarketing and electronic messages. Both regimes contain exceptions for 'express consent' and 'inferred consent', however lead generators often obtain 'consent' through misleading or manipulative means. Once this consent is secured, businesses proceed to contact consumers even if they are on the Register.

## State and Territory agencies

State and territory consumer protection agencies are responsible for administering and enforcing the ACL within their jurisdiction. Given the ease with which digital lead generation crosses state boundaries, coordinated action across jurisdictions is necessary to protect against inconsistency.

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<sup>21</sup> Office of the Australian Information Commissioner (Oct 2025), *Australian Privacy Principles Guidelines: Privacy Act 1988*, [link](#).

## 4. Key issues identified

### Manufactured 'consent'

Lead generation often manufactures consumer consent, technically meeting legal requirements while at the same time fundamentally undermining their intent. Consumers are steered into agreeing to be contacted through deceptive design, vague language and dense terms and conditions. Online forms mimic government branding or use time-limited offers to pressure people to quickly complete forms without taking the time to carefully read and consider them.

Completion of these forms typically requires people to consent to contact from 'partners', however the language is deliberately vague about how many businesses might contact someone, or for what purpose. People cannot meaningfully consent to outcomes they cannot foresee, such as receiving dozens of calls from multiple businesses after entering their details online to supposedly check eligibility for a government rebate.



Figure 1: Screenshot of home solar social media lead generation advertisement. Source: [Consumer Action Designated Complaint to ACCC](#).

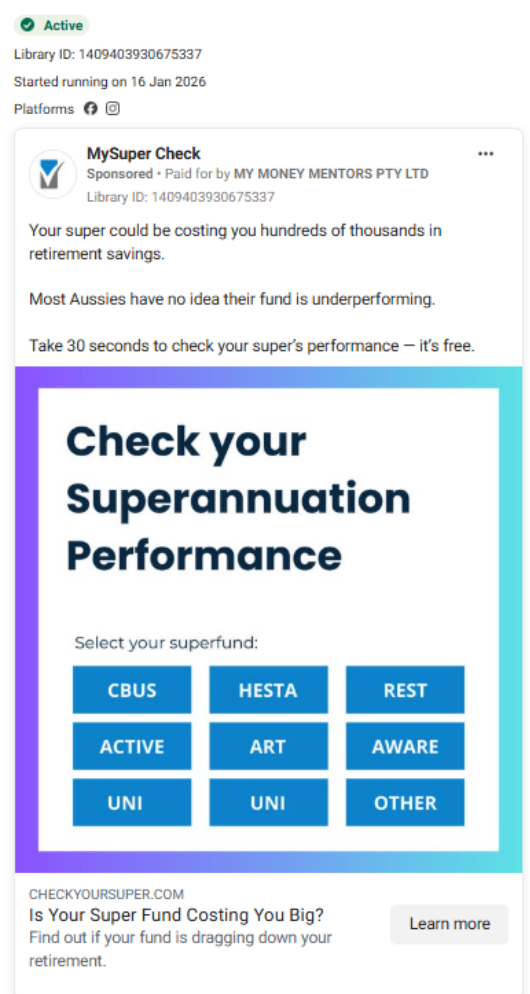


Figure 2: Advertisement offering to 'Check you super' in 30 seconds. Source: Meta Ad Library, 27 May 2026. The advertiser is currently named in [ASIC Moneysmart's guidance on lead generation](#).

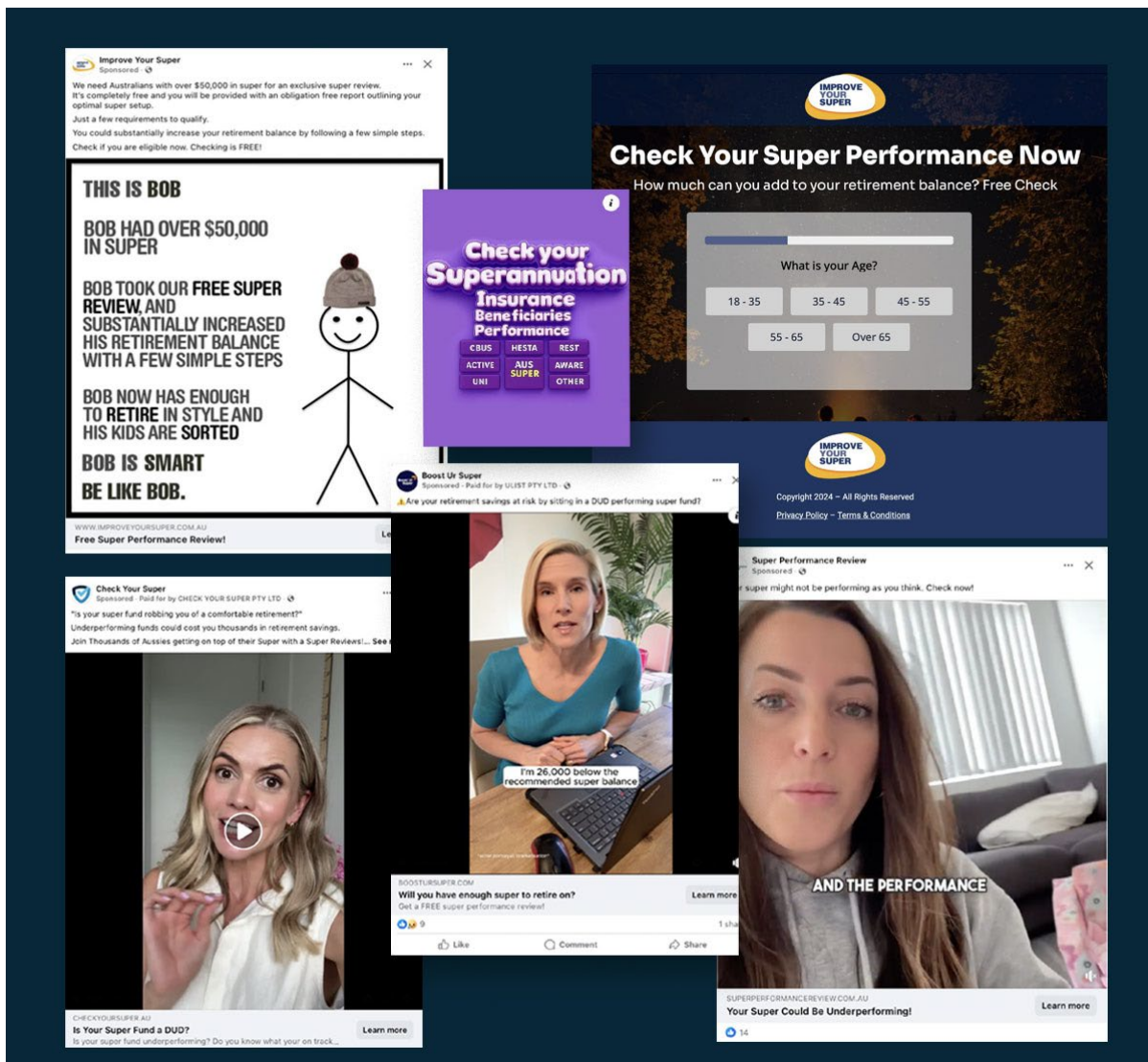


Figure 3: Advertisements for 'super switching'. Source: <https://takeyoursuperback.com/what-happened/>

## Circumvention of consumer protections

Manipulative lead generation, especially via online channels, deliberately exploits some elements of consumer protections that are blurry or complex.

This is particularly true in the distinction between solicited and unsolicited contact with a consumer under the ACL. The current distinction doesn't account for the current realities of the digital economy and was more relevant in a time of door-to-door sales and cold calls. However, lead generators can now deceptively generate the consumer's 'invitation' to contact them, for example via online forms or social media offers, with the consent hidden in the fine print. In this way, lead generation relies on carefully-designed mechanisms to supposedly elicit 'consent' from consumers to be contacted. While this type of lead generation may not meet the technical legal definition of unsolicited selling, it often leads to all the harms associated with traditional unsolicited selling.

Lead generators and financial advisers have also skirted the hawking prohibition for financial products by marketing financial advice, and not financial products. This technically avoids the hawking prohibition because advice, as a financial service, is carved out.

The Do Not Call Register has faced similar circumvention, with unscrupulous businesses manufacturing people's express or inferred consent to being contacted.

This conduct is systemic. An industry of businesses now exists solely to capture people's details and manufacture consent. That 'consent' is then on-sold to other businesses who aggressively pursue sales, leaving consumers personally and financially harmed and without clear redress.

## **Opacity of lead generation**

The lead generation industry is deeply opaque. As far as we are aware, there is no clear data on the size of the lead generation industry in Australia, either public or held by regulators. The number of businesses involved, the growth of the industry, the money being spent, the number of consumers impacted, and the resultant harms are hard to quantify. This opacity frustrates regulatory oversight, but also people's ability to exercise their own consumer rights.

Unlike traditional advertising where the commercial relationship is usually apparent, the multiple intermediaries present in lead generation make it difficult for consumers to trace how their details were obtained. This only becomes more confusing when sales approaches occur weeks or months after leads were generated, or when people are contacted by multiple businesses. People have the near-impossible task of working out if they somehow authorised each business to contact them individually, or if their details have been resold or shared out of their sight.

This opacity advantages businesses and undermines people's ability to exercise their rights. For instance, consumers cannot exercise their rights under the Privacy Act to access or correct their information, or to opt out of marketing, when they cannot identify all the entities which hold their data.

## **Undermining competitive market effectiveness and consumer outcomes**

A core principle of the competitive market is that competition between businesses provides more choice for consumers and inspires better quality products and services.<sup>22</sup> In effect, consumers having the ability to choose between competing offers, which drives consumer-centric business behaviour and better aligns consumer needs with business products.

Lead generation disrupts this logic, by sorting, targeting and steering consumers through a system designed to disempower them from genuine choice and maximise corporate returns. This was evidenced in the Shield and First Guardian collapse, where lead generators misled consumers through inaccurate comparison advertisements, providing the illusion of a good market choice. Unbridled lead generation may result in higher prices, poorer value products, reduced consumer agency and a redistribution of economic value away from consumers and towards businesses and data intermediaries.

## **Impacts on consumers experiencing vulnerability**

In previous work, we have identified that people on lower incomes may be more vulnerable to unsolicited sales.<sup>23</sup> Behavioural economists have attributed this to "the cognitive impact of poverty", wherein the mental burden carried by people on low incomes depletes their ability to resist pressure selling.

Lead generation similarly appears to disproportionately impact people experiencing some kind of vulnerability, such as people from culturally and linguistically diverse communities, people living with disability or people living on low incomes. This may be due to increased vulnerability to manipulative lead generation tactics, but also because they can experience greater personal and financial harm if they are drawn into buying something by unfair, manipulative sales practices.

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<sup>22</sup> Australian Competition and Consumer Commission, 'Competition and anti-competitive behaviour,' [link](#).

<sup>23</sup> Consumer Action Law Centre, Loddon Campaspe and Westjustice (Nov 2017), *Knock it off! Door-to-door sales and consumer harm in Victoria*, [link](#), pp. 26-27.

## Enforcement challenges

Even where current legislation prohibits or restricts problematic lead generation, enforcement is hampered by evidence gaps, jurisdictional limitations and resource constraints.

Digital lead generation leaves little to no record from the consumer's perspective. A consumer who completes an online form rarely retains copies of that form (or associated policies and terms and conditions). Consumers rarely think to record telephone calls following lead generation. Conversely, businesses hold detailed documentation of supposed 'consent'. The information asymmetry makes individual complaints difficult to substantiate, even when the conduct likely breaches consumer law.

Offshore operations further complicate enforcement. While businesses purchasing offshore leads remain within jurisdiction, lead generators themselves could be based overseas, meaning they may ignore information requests and refuse to cooperate with investigations, which makes enforcement difficult.

## 5. Proposals for regulation

Reducing consumer harm from lead generation likely requires a comprehensive, multi-faceted response.

Existing regulations are dispersed, and the issues identified above – such as manufactured consent, the opacity of lead generation, and challenges in enforcement – demand coordinated action.

This section outlines four key reform proposals, each designed to address different pain points in the lead generation ecosystem:

1. banning lead generation in high-risk sectors;
2. expanding the Unfair Trading Practices (UTP) prohibition to cover financial products and services and explicitly name lead generation in the 'grey list';
3. regulating lead generation advertising on digital platforms; and
4. strengthening consent and disclosure requirements.

Each proposal is explored below, along with considerations for implementation. These proposals are not mutually exclusive. The complexity of manipulative lead generation requires a combination of these measures to effectively protect consumers.

### 5.1 Ban lead generation in high-risk sectors

As the first priority, lead generation should be prohibited in sectors where it has, or is likely to, cause significant and/or systemic consumer harm.

High-risk sectors identified through Consumer Action's casework and stakeholder consultation include:

- superannuation;
- life insurance;
- debt management;
- areas with severe safety risk including lithium-ion home batteries; and
- sectors where Government compensation schemes or rebates are available, e.g. solar rebates, education courses, employment services and redress schemes.

In superannuation, life insurance, debt management and new energy technology sectors, the combination of expensive products (or high-value assets) and complex decision-making create the potential for severe financial harm.

Sector-specific bans is a targeted response that is proportionate to the unacceptable consumer risk posed. Our experience shows us that unacceptable risk could be due to:

- business structures, relationships and practices that are opaque and confusing to consumers,
- power and information asymmetries that can cause significant disadvantage and harm to consumers,
- the risks and consequences of financial harm that are significant, relative to the circumstances of the consumers who are targeted (that is, not just the amount of financial risk but the personal and financial impacts on consumers), and/or
- safety risks such as lithium-ion batteries.

Given multiple instances of problematic lead generation around government-funded programs, lead generation activity targeting compensation schemes or government rebates, such as new energy technologies should be banned. Examples of the heightened risks in these sectors include:

- references to government rebates seemingly legitimises requests for consumer information and sign up, potentially misleading the consumer
- high amounts of available money, including in complex sectors, that attract bad actors to manipulate and rob consumers (i.e. superannuation, green energy rebates, redress schemes, etc)
- for new energy technologies, concerns about product safety of lithium-ion batteries, and
- for Government compensation schemes, 'claim farming' under the national redress scheme for victim-survivors of institutional child abuse, which has been exploitative and retraumatising for the people targeted.<sup>24</sup>

Government schemes have been the target of unscrupulous operators for years. For example, in 2018, Consumer Action's *Dirty Leads* report highlighted the exploitative use of job advertisements to harvest people's details, then aggressively sell them vocational education courses, which were supported by Government VET FEE-HELP loans.<sup>25</sup> While the current problem largely revolves around Government incentives for solar panels and lithium-ion batteries, the business model remains the same. Without sharp intervention, lead generators will continue to shapeshift and adapt to new opportunities to exploit the next Government pot of money.

Under this proposal, businesses that sell products or services in these high-risk sectors would be banned from purchasing or using leads generated by third parties, with penalties for businesses that buy leads in breach of the bans.

Bans would operate similarly to the existing hawking prohibition in financial services, but specifically target lead generation, rather than just unsolicited contact. Unlike conduct-based regulation, sector bans create clear boundaries for acceptable conduct. Either a business purchased leads, or it didn't; either the product falls within banned sector or it doesn't. This clarity benefits businesses seeking to comply, regulators enforcing rules, and consumers trying to understand the rules.

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<sup>24</sup> Knowmore, '[South Australia passes nation-leading law to ban claim farming of survivors of child abuse](#)', September 2025.

<sup>25</sup> Consumer Action, [Dirty Leads: Consumer protection in online lead generation](#), March 2018, pages 13 – 15.

There is also a risk that businesses may also adapt their model to circumvent bans. These shifts may be trivial (changing product names), or substantial (moving to lead generation for new products or services entirely). Laws would need to be carefully drafted and regulators adequately resourced to ensure the bans are effective.

The framework would also include mechanisms to review data and extend bans to additional sectors as necessary. Other sectors which regulators deem too high-risk for lead generation to continue, identified via complaint data, investigations, enforcement action, and/or stakeholder feedback. One example of a high-risk sector where a prohibition on lead generation should be considered is activity targeted at children. Younger people can be at a particularly high risk of being manipulated into giving away their information by highly-targeted and 'gamified' lead generation, for example, via games, social media and other apps and channels. Children are not in a genuine position to give consent to their data being collected and used commercially. Lead generation raises serious concerns such as life-long loss of privacy, exposure to exploitative marketing, manipulation of children's trust, and impairing children's ability to learn how to navigate the online world safely.

### Key considerations

Prohibiting lead generation in some sectors might reduce some people's access to goods and services. However, the reality is that the goods and services sold via lead generation are often poor value, unsuitable and even harmful to consumers.

An alternative to banning lead generation in high-risk sectors may be establishing a licensing regime for all lead generators. This approach could potentially improve regulator insights and business accountability, striking at the current opacity of the lead generation industry. However, on balance, a licensing regime would not be an effective option. It would require intensive regulator attention and may be too cumbersome to be effective. Licensing the industry could also bring a 'halo effect' to lead generators who are engaging in harmful conduct, whereby harmful lead generators are seen as legitimate. We also observed that two of the lead generators in the Shield and First Guardian matters were in fact licensed under financial services laws. The licensing regime failed to prevent the devastating harms.

Businesses marketing to people in Australia should be required to comply with the sector-specific prohibition on lead generation, and be blocked and banned if they breach the prohibition.

## **5.2 Expand the Unfair Trading Practices prohibition to cover financial products and services and explicitly name lead generation in the 'grey' list**

The forthcoming prohibition on Unfair Trading Practices (UTP)<sup>26</sup> represents a significant expansion of Australian consumer law, introducing a general prohibition on unfair practices alongside specific prohibitions on certain conduct (e.g. subscription traps and drip pricing). Under the general test in the UTP Bill currently before the Senate, trading practices would be unfair if they manipulate the consumer and/or unreasonably distort the decision-making environment, and cause (or are likely to cause) detriment to the consumer.<sup>27</sup> Many lead generation practices meet these criteria, for example, using government branding or rebate messaging to collect people's details, or high-pressure sales using time-limited offers to push people into a quick purchase.

The major failing of the UTP prohibition in its current form is the carve out for financial products and services. This means the type of manipulative lead generation practices which led to people losing their life savings in the Shield and First Guardian collapses will not be considered 'unfair' under the new laws. This regulatory loophole must be closed, so the UTP regime can protect people from devastating and life changing harm.

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<sup>26</sup> Competition and Consumer Amendment (Unfair Trading Practices) Bill 2026, introduced to the House of Representatives on 1 April 2026.

<sup>27</sup> Competition and Consumer Amendment (Unfair Trading Practices) Bill 2026, new Part 2-4, Section 28B. <https://beta.treasury.gov.au/key-activities/consultations/c2026-739506>

However, the UTP could be deployed to specifically address harmful lead generation practices, by specifying in the 'grey list' in the UTP laws<sup>28</sup> that the following practices are prohibited:

- Failing to clearly disclose the dominant purpose for collecting a consumer's personal information.
- Failing to disclose the specific businesses that will receive a consumer's details once provided, and the purposes for which those details will be used.
- Relying on purported "consent" to sales approaches that were generated through obscure, complex or misleading mechanisms that a reasonable consumer would not understand.

### Key considerations

The broad, principles-based protection offered by the UTP may be a net positive, but assessing unfairness involves a degree of subjective judgment. Identifying in practice what is unfair will need to be tested and established through case law, meaning consumer harm may continue in the interim.

## **5.3 Regulate lead generation advertising on digital platforms**

Digital platforms, particularly social media networks and search engines, are a critical part of the lead generation ecosystem. The vast reach of a handful of large platforms enables manipulative online lead generation to operate successfully at industrial scale. Focusing solely on lead generators, or the businesses purchasing leads, without also regulating platforms hosting advertisements ignores the magnifying impact that these platforms give lead generators.

Platforms could be required to vet advertisers, ensure advertisements comply with certain standards, and maintain public registers of entities advertising on their platforms. This approach would address a significant pipeline for harmful lead generation activity, as well as having the advantage of larger scale, allowing regulators to work with the relatively small number of major platforms, rather than large numbers of individual lead generators.

Platform obligations could include mandatory verification of advertiser identity before accepting lead generation advertisements. Platforms would need to maintain publicly accessible advertisement databases showing who purchased ads, what targeting criteria were used, how long the ad has been running, and how much was spent, building on Meta's Ad Library.

In addition to accepting ads only from registered entities, platforms could be required to review advertisements in high-risk categories before allowing them to run, as is the case for obligations on digital platforms proposed under the Government's Scam Prevention Framework. Platforms would face penalties for hosting advertisements that breach agreed standards. This would create incentive for platforms to be more actively monitoring ads they host, as well as shifting some of the compliance burden on to the platforms which profit from lead generation advertising.

In addition to platform obligations, regulators should also have stronger takedown powers, so that they can identify non-compliant lead generation advertisements and order them to be removed. They should be penalties for advertising hosts that fail to comply with regulators' take down orders within a short period of time. This approach is another way to prevent the harm before it happens, rather than intervene to assist people who have been impacted by harmful lead generation.

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<sup>28</sup> ACL new Part 2.4, s 28B(6).

## Key considerations

There is a challenge in any regulation that impacts digital platforms, given they are large overseas entities. However, platforms must be part of the regulatory response to manipulative lead generation, similarly to their role in the Scams Prevention Framework. Platforms are profiting enormously from hosting these ads,<sup>29</sup> and the preventative actions we propose are identical to those required in the scams context.

There is also the risk of circumvention, if lead generators shift to channels outside regulated entities, such as standalone websites, emerging platforms or offline, or disguise lead generation as other types of content. This means that platform regulation would need to work in tandem with other measures.

### **5.4 Strengthen consent and disclosure requirements**

Weaknesses in our current privacy laws mean consent is being manufactured, in order to avoid unsolicited selling and hawking laws.

The problem of manufactured consent can be addressed by uplifting standards for what constitutes genuine consumer agreement, better protecting people's information from manipulative and opaque business practices, and making businesses who use lead generators responsible for sourcing leads legitimately. Our current privacy laws are inadequate to protect people from the harms of manipulative lead generation.

First Nations Data Sovereignty recognises the inherent right of First Nations peoples and communities to govern the collection, ownership, and application of data.<sup>30</sup> The 2018 Indigenous Data Sovereignty Summit asserted that in Australia First Nations people have the right to:

- Exercise control of the data ecosystem including creation, development, stewardship, analysis, dissemination and infrastructure.
- Data that is contextual and disaggregated (available and accessible at individual, community and First Nations levels)
- Data that is relevant and empowers sustainable self-determination and effective self-governance
- Data structures and ecosystems that are accountable to First Nations peoples
- Data that is protective and respects First Nations individual and collective interests<sup>31</sup>

First Nations Data Sovereignty is enshrined in the United Declaration of the Rights of Indigenous People (**UNDRIP**). Lead generation fundamentally contradicts First Nations Data Sovereignty Principles through the obscure and amorphous way it targets, harvests and on sells consumer contact details. Under First Nations Data Principles, the collation, storage and use of data must be transparent and done with free, prior and informed consent from consumers. There must also be of data governance frameworks that retain First Nations ownership and stewardship of their data.

As well as embedding First Nations Data Sovereignty in data practices, we could look to overseas experience in recent years to assess what may provide better protection against manipulation and invasions of privacy than Australia's current privacy laws.

The European Union's General Data Protection Regulation (**GDPR**) is one example of laws that place much higher standards on lead generators and others who collect people's information. Under the GDPR, consent must be a

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<sup>29</sup> Reuters, '[Meta is earning a fortune deluge fraud on a deluge of fraudulent ads, documents show.](#)' November 2025.

<sup>30</sup> Kowa, (Accessed 24 June 2026) 'About Indigenous Data Sovereignty and Governance,' [link](#)

<sup>31</sup> Maïam nayri Wingara, (Accessed 24 June 2026) 'MnW Principles,' [link](#)

freely given, specific, informed, unambiguous indication of wishes by clear affirmative action.<sup>32</sup> A person must be able to withdraw consent at any time and it must be “as easy to withdraw as to give consent”.<sup>33</sup>

Australia’s Consumer Data Right rules<sup>34</sup> and the recommendations of the 2022 Privacy Act Review<sup>35</sup> could also be sources of more effective privacy protections.

Strengthened requirements could include that:

- Consumer consent must be voluntary, explicit, informed, time-bound, and specific as to purpose, and able to be withdrawn at any time, to increase the opportunity for consumers to understand and control the implications of providing their details.
- Lead generation forms must clearly state the commercial purpose of collecting, sharing or using data, and identify all businesses that may receive the consumer’s information and/or contact the consumer.
- Lead generation businesses must:
  - clearly disclose how and why they have collected, shared or used consumer information,
  - keep records of how they have dealt with an individual consumer’s data, which must be made available to the consumer,
  - maintain publicly accessible registers of businesses purchasing their leads.
- Businesses contacting consumers must identify where they obtained the consumer’s information from, including the name of the lead generation business, and tell the consumer how their consent to be contacted was obtained.

If these requirements are breached, the consumer’s consent should be considered invalid. If a business bought consumer information from a lead generator – and the lead generator did not obtain consumers’ genuine consent – the business that bought the information could breach unsolicited selling laws or the hawking prohibition.<sup>36</sup> Ensuring consent is genuine is important to close the loophole in unsolicited selling laws that many lead generation businesses have been exploiting.

To ensure any reforms provide effective protections, consumers should have access to a fast, simple and fair mechanism to resolve individual disputes. There must also be increased capacity and funding of the Office of the Australian Information Commissioner (**OAIC**) and other relevant Ombudsman schemes that receive privacy jurisdiction conferred by the OAIC.

### Key considerations

Currently some businesses are not diligent about how and where they source leads, and these reforms will require them to lift their practices and record keeping. However, businesses that buy consumer information from lead generators must be held responsible for how they obtain and use consumer information. This is critical to stop businesses profiting from the misconduct of other businesses, while avoiding the consequences.

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<sup>32</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (GDPR), Article 4(11).

<sup>33</sup> GDPR Article 7(3).

<sup>34</sup> Rule 4.9 of the [Competition and Consumer \(Consumer Data Right\) Rules 2020](#) states that consent needs to be “voluntary; and express; and informed; and specific as to purpose; and time limited; and easily withdrawn”.

<sup>35</sup> The Government has accepted in-principle proposal 11.1 of the Privacy Act Review: See: [Government Response to the Privacy Act Review Report](#).

<sup>36</sup> Unsolicited consumer agreement provisions in ACL Pt 3-2 Div 2; hawking prohibition in *Corporations Act 2001* section 992A.

Strengthened consent requirements come with the potential for businesses to circumvent the rules. Legislative drafting should mitigate this risk and the regulator should identify and target deliberate attempts to avoid complying with the law.

As with other proposed reforms, offshore operators may ignore Australian consent requirements. As with other reforms proposed above, this risk should be addressed by regulating local businesses that deal with lead generators.

## **6. Recommended approach**

Effectively addressing the complex practice of lead generation will require a comprehensive response that is proportionate to the harms this practice can cause.

Sector-specific bans provide the strongest protection but run the risk of lead generation activity moving to sectors not captured by a ban. The UTP has good scope to capture current and future unfair practice by business, but will fall short without extending to financial products and services. Strengthened consent and data protections help consumers better understand what they are signing up for, but must be bolstered by additional consumer protections. The regulation of advertisements on digital platforms addresses a significant channel for lead generation activity but must be implemented with an understanding of the realities of digital platforms.

Addressing harmful lead generation must be done across multiple reforms. This would address the most significant immediate harms through immediate targeted sector-specific bans and UTP laws, and complementary reforms to reinforce the broader framework to address manipulative lead generation activity.

## **Immediate reforms**

### 1. Ban lead generation in high-risk sectors

As an immediate priority, lead generation should be prohibited for sectors where there is evidence of extensive harm linked to lead generation practices. This includes:

- Superannuation;
- Life insurance;
- Debt management;
- Areas with severe safety risk including lithium-ion home batteries; and
- Sectors where Government compensation schemes and rebates are available.

### 2. Expand the Unfair Trading Practices prohibition to cover financial products and services and explicitly name lead generation in the 'grey' list

- The forthcoming UTP prohibition should include manipulative lead generation in the 'grey list' of specifically prohibited conduct.
- The UTP prohibition should be extended to financial products and services.

## **Ongoing systemic reforms**

### 3. Regulate lead generation advertising on digital platforms

- Lead generation via platforms should be regulated similarly to scams. This would require platforms to verify the identity of advertisers, maintain public registers of lead generation advertising, proactively review advertisements on their platforms, and remove those that breach agreed standards.
- Regulators should have stronger powers to issue takedown orders to advertisement hosts.

### 4. Strengthen consent and disclosure requirements

- Consent and disclosure requirements must align with principles of First Nations Data Sovereignty
- Privacy laws should require consumer consent to be voluntary, explicit, informed, time-bound, and specific as to purpose, and able to be withdrawn at any time. Breach of these requirements would make the consent invalid, and unsolicited selling or hawking laws would apply.
- Lead generation businesses should have stronger disclosure and record-keeping obligations.
- Businesses that obtain consumer information from lead generators must be legally responsible for ensuring that their 'leads' are comply with the law.
- Consumers should have easy access to a fast, simple and fair complaints mechanism where their data and privacy rights are breached, including by lead generators.
- There must be increased capacity and funding of the OAIC.