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## DEAR INSOLVENCY PRACTITIONER Issue 120 – February 2021

Dear Reader

Please find enclosed the latest article by the Insolvency Service. This coincides with recent rulings by the Advertising Standards Agency in relation to misleading online advertisements aimed at those in debt. Any insolvency practitioners using those firms, or who use lead generators or debt packagers whose advertising may be considered misleading, should consider the implications of those rulings, and take appropriate action to ensure compliance with the Insolvency Code of Ethics and advertising standards.

Whilst writing, please note that following a request from the ACCA, legislation was laid in Parliament on 4 February to revoke the ACCA's status as a Recognised Professional Body. The Order will take effect from 1 March 2021.

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## **108) Advertising and marketing by introducers, debt packagers and lead generators**

This article is being issued to remind insolvency practitioners of their obligations under the [Insolvency Code of Ethics](#) when considering taking a new appointment; including in relation to advertisements, marketing and also their responsibilities for advertising by introducers/ debt packagers/ lead generators. Regulators have agreed guidance for the Recognised Professional Bodies (“RPBs”) in this area and practitioners should be aware of the implications of recent rulings by the Advertising Standards Authority in relation to misleading advertising aimed at those in debt.

Insolvency practitioners must be satisfied, and be able to demonstrate to their RPB on inspection, that any advertising, marketing or other form of promotional activity which leads to an insolvency appointment is:

- Fair and not misleading.
- Has avoided unsubstantiated or disparaging statements.
- Has complied with relevant codes of practice and guidance in relation to advertising.
- Has been clearly distinguishable as advertising or marketing material and has been and has been legal, decent, honest and truthful.

Where an insolvency practitioner intends to obtain an appointment via a third party, or a third party conducts the marketing activities on behalf of the insolvency practitioner, that practitioner remains responsible for that advertisement and marketing and its compliance with the ethical code.

The Insolvency Service, RPBs, the Financial Conduct Authority (FCA) and the Advertising Standards Authority (ASA) have worked collaboratively to develop [guidance](#) to support the regulation of insolvency practitioners and information-sharing between the regulators. This guidance covers both advertisement practices and the provision of debt advice.

The ASA recently published [two rulings](#) involving commercial debt advice companies ([National Direct Service](#) and [Fidelitas Group Ltd](#)) who had made misleading claims in paid-for internet search advertisements and on their websites.

The Insolvency Service considers any breaches of the ethical code and/or advertising standards to be serious matters and will continue to refer any potential breaches to the ASA, FCA and the RPBs.

It is extremely disappointing that similar advertisements, including seemingly impersonating debt advice charities, continue to be found online. The

insolvency regulators, the FCA and the ASA are also aware of similar advertising campaigns targeting the users of social media sites and any instances will be reported to relevant regulators for action.

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