

Briefing Note

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Division: PRHT

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Advertising and Crypto: Prepared as background material for the meeting with the [REDACTED] on 23 February 2023

1. Aggressive advertising techniques

The series of crypto crashes throughout 2022 have been informative in that they have highlighted how key risks in the sector manifested. These include **advancing risks from lack of consumer protections in place, the dangers from aggressive advertising practices, the growth of sectoral contagion, and the challenges from a poor culture around conduct**, governance and transparency within the sector.

The **currently increasing risk from the aggressive advertising practices within the sector, including the use of “finfluencers”** and gaming techniques to sway consumers / investors, often praying on lack of consumer knowledge requires consideration.

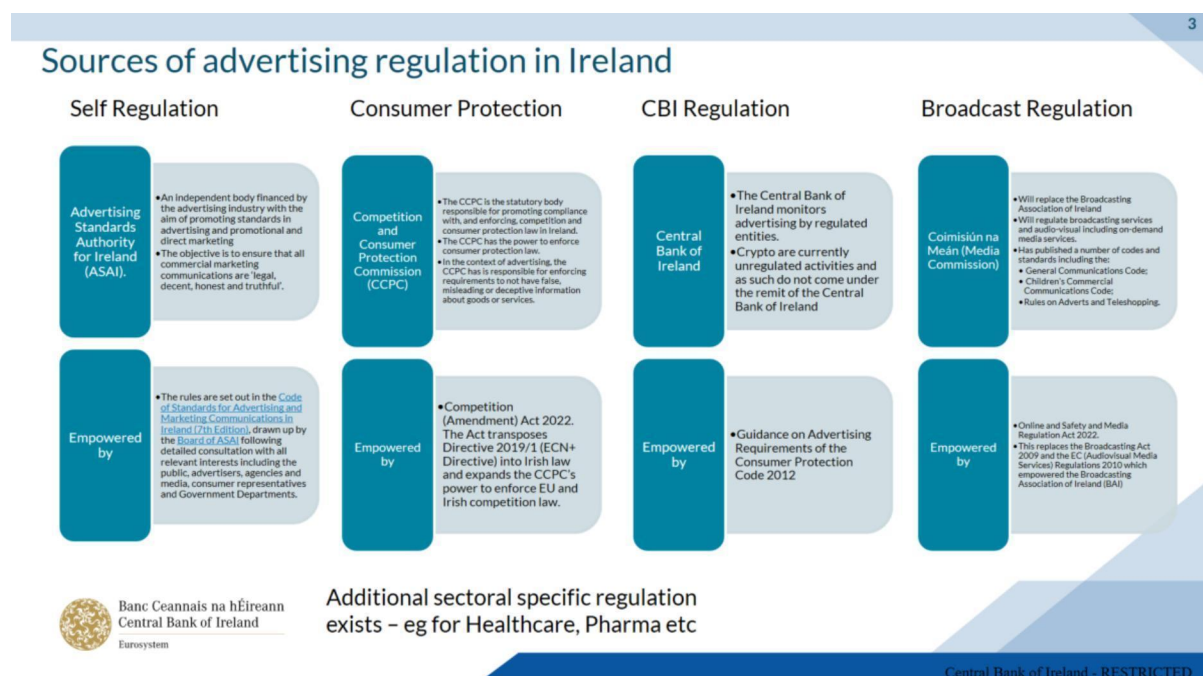
The rise of finfluencers is challenging, they hold great sway over ordinary consumers, in particular, consumers / investors with low levels of knowledge on the sector utilising prominent social media avenues that most people interact with, but avenues that regulatory bodies with cautious and protective messages do not.

While financial education is critical, it also raises **the question as to the need for an additional response on crypto advertising and the use of finfluencers**.

The new European Markets in Crypto Asset Regulation (MiCA) will bring some of the actors in the crypto ecosystem within regulation, some for the first time and in a manner convergent across the European Union (EU). This will help to address many of the current risks and importantly, ensure a consistent approach, across the EU, to regulation of this largely cross-border sector. It will place obligations on those providing services to ensure that *the relevant marketing communications, such as advertising messages and marketing material, and including through new channels such as social media platforms, should* be fair, clear and not misleading.

However, in the absence of MiCA a question remains as to whether there is potentially a gap in the regulatory framework to ensure that consumers are adequately protected from aggressive advertising techniques and the use of finfluencers of some crypto firms.

2. The current advertising regulatory framework



2.1 Advertising Standards Authority for Ireland (ASAI)

Self-regulation is the principal method of regulation of advertising in Ireland and is carried out and enforced by the **ASAI**. The rules are set out in the [Code of Standards for Advertising and Marketing Communications in Ireland](#).

Specifically related to Financial Services and Products: Rules 13.5 and 13.6 are clear in highlighting that marketing communications should clearly highlight “in a prominent manner” **that the value of investments is variable and, unless guaranteed, can go down as well as up** and that past performance or experience does not necessarily give a guide for the future.

The ASAI has also issued a guidance note on the Recognisability of influencer marketing communications.¹

In 2022, the ASAI found in favour of two complaints² made about outdoor advertising for crypto currency. One complaint related to the absence of a warning that the value of the currency could rise or fall. The Complaints Committee *noted that the advertising had not included any direct references to potential returns or past performances, however, the advertising had promoted a financial product, the value of which could fluctuate, and the Code requirement was that marketing communications for financial products or services should make it clear in a prominent manner that the value of investments is variable and, unless guaranteed, can go down as well as up. In the absence of this information in the advertising, the Committee considered that the advertising was in breach of Section 13.5 of the Code.*

¹ <https://www.asai.ie/wp-content/uploads/ASAI-Guidance-Note-Recognisability-of-Influencer-Marketing-Communications-Feb-21.pdf>

² <https://www.asai.ie/complaint/financial-13/>

2.2 Competition and Consumer Protection Commission (CCPC)

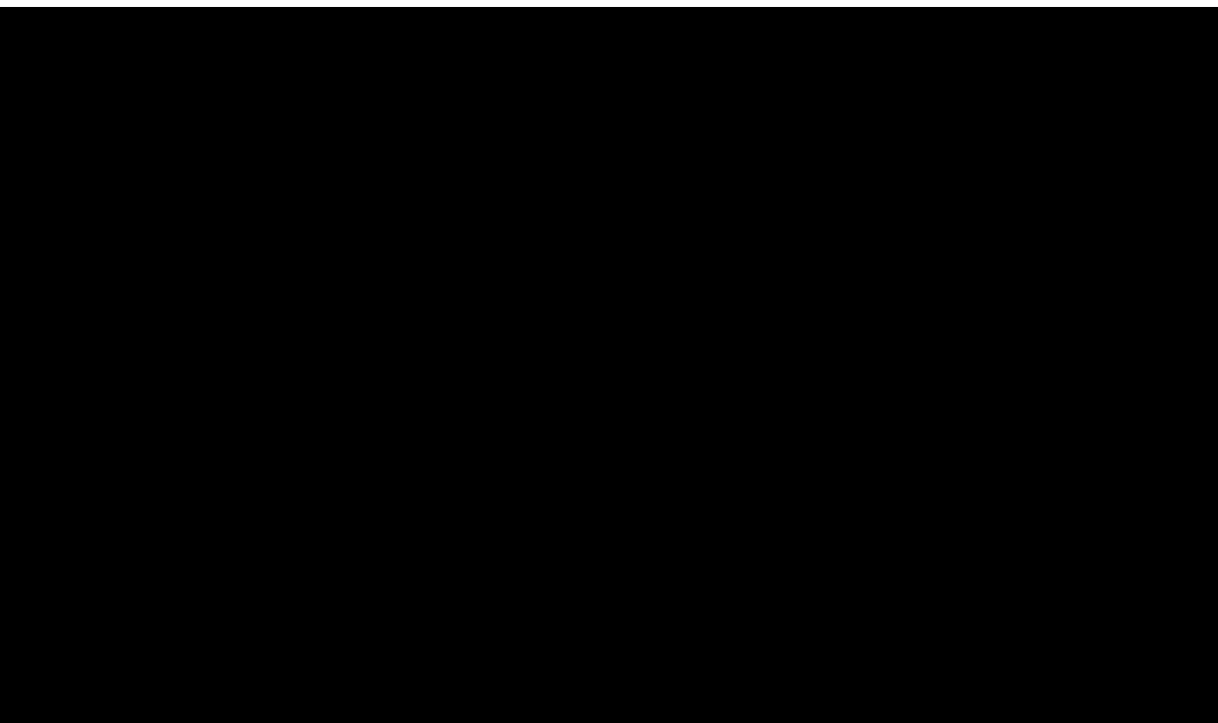
The **CCPC is the statutory body responsible for promoting compliance with, and enforcing, competition and consumer protection law in Ireland** and is empowered by the Consumer Protection Acts (2007, 2014, and 2022) and the Consumer Rights Act 2022 requires firms to be transparent in all dealings with consumers and places a wide range of responsibilities on firms. **Under the CPA's it is a criminal offence to make a false or misleading claim about goods, services and prices** and the CCPC is empowered through these various acts to enforce these legal requirements. See appendix 1 for further detail on the ASAI, CCPC and the CBI's powers around advertising.

Under this existing structure, **social media influencers and bloggers have the same legal responsibilities to consumers when they are act on behalf of a business** – for example, promoting or advertising the goods or services of a business.

Influencers in Ireland have an explicit responsibility to label commercial content under the Consumer Protection Act 2007 while the ASAI have issued **specific guidance**³ around the use of influencers marketing communications.

2.3 Central Bank of Ireland

The over-arching principle of the advertising requirements of the Consumer Protection Code 2012 (‘the Code’) is that regulated entities produce advertising that is ‘clear, fair, accurate and not misleading’. The requirements of the Code apply to *“to the regulated activities of regulated entities”*, therefore the Code requirements would not apply to the advertising by a regulated entity of the currently unregulated activity of crypto.



³ <https://www.asai.ie/wp-content/uploads/ASAI-Guidance-Note-Recognisability-of-Influencer-Marketing-Communications-Feb-21.pdf>

3. CCPC Social Media Influencers survey and research

In December 2022 the CCPC published research on social media influencers⁴ finding that there is need for improvement on labelling adverts. Key findings from this survey and research include:

- 78% of consumers surveyed reported being familiar with the term ‘influencer’
- 29% stated that they follow influencers on social media with this increasing to 67% for the under 24 age category
- Almost 50% of influencer advertising content was not tagged as advertising

These high level findings are informative, but the CCPC report also brought more nuance to the level of clarity Irish consumers have around identifying influencer marketing.

- **77% of Irish consumers consider it “easy” to identify influencer marketing.** However this ability was less clear when explored in more depth in focus groups. **Several influencer marketing examples shown to consumers caused them confusion in identifying the actual nature of the post.** This suggests that **consumers may be overconfident in their ability** to recognise when posts by influencers are in fact marketing and they may be more vulnerable to misleading marketing than they think.
- **66% of consumers who follow influencers reported purchasing a product as a result of an influencer mentioning it (direct influence).** However, the survey found an important follow-on finding is that **nearly 24% of consumers who purchased a product as a result of an influencer promoting it stated that they subsequently felt misled** about the product that they had purchased. This equates to 4.6% of the adult population.
- Of the consumers that follow influencers, **60% stated that they recommended a product to family and friends as a result of an influencer mentioning it (indirect influence).** This finding in particular may have wider implications for the overall impact of influencer marketing on consumers given that the consumers who were surveyed expressed the highest level of trust for “recommendations from family and friends” when purchasing a product.

3.1 Crypto

The CCPC specifically explored influencers promoting crypto and other financial products. Here consumers raised specific concerns, in particular where the influencer had no experience in these areas. Importantly, **51% of the consumers surveyed stated that most of the influencers they follow are based outside of Ireland.** This suggests that even if the finfluencing phenomenon is not yet a big factor amongst Irish influencers, it may still be affecting Irish consumers who consume financial content produced by international influencers.

A key finding of this survey and research was that a **significant portion of the posts with commercial content were either not labelled at all or not sufficiently labelled** when considered in the context of

⁴ <https://www.ccpc.ie/business/ccpc-research-on-social-media-influencers-highlights-the-need-for-improvements-in-labelling-influencer-ads/>

the 2007 Act, the current Advertising Standards Authority for Ireland (ASAI) guidance and international practice.

3.2 Recommendations

This survey made several recommendations including:

1. **Guidance on influencer marketing** in Ireland should be **strengthened**
2. **Brands, influencers and the agents** who represent them have a **responsibility to inform themselves of their legal responsibilities** and to ensure that brand requirements for paid social media content are in line with the law
3. **Social media platforms should assume greater responsibility for informing and educating** users (i.e. influencer, brands, consumers) **on the risks of hidden or misleading advertising** by influencers.
4. **Social media platforms should support users in appropriately labelling content** and facilitate the deterrence and reporting of hidden or misleading advertising content
5. **Relevant authorities should continue to actively pursue enforcement** through existing and new mechanisms.

The CCPC and the ASAI continue to work together on actioning these recommendations.

Action on this issues is being considered internationally. See appendix 2 for recent specific action taken internationally to mitigate the risks from aggressive advertising in crypto.

Appendix 1: Summary of main advertising regulators in Ireland:

ADVERTISING STANDARDS AUTHORITY FOR IRELAND (ASAI)

Self-regulation is the principal method of regulation of advertising in Ireland and is carried out and enforced by the **ASAI**. The ASAI is an independent body financed by the advertising industry and is committed, in the public interest, to promoting the highest standards of marketing communications, that is, advertising, promotional marketing and direct marketing.

The ASAI objectives are **to ensure that all commercial marketing communications are ‘legal, decent, honest and truthful’**.

The rules are set out in the [Code of Standards for Advertising and Marketing Communications in Ireland](#), drawn up by the Board of ASAI following detailed consultation with all relevant interests including the public, advertisers, agencies and media, consumer representatives and Government Departments.

Members of ASAI are required to abide by the Code and not to publish an advertisement or conduct a promotion which contravenes Code rules.

At a high level the general rules set out that **advertising and marketing materials should be legal, decent, honest, and truthful**, abide by the principles of **fair competition** and abide by a sense of **responsibility to consumers and society**.

More specifically and relevant to the aggressive advertising techniques utilised by the crypto sector, the Code also specifies that marketing communication should be designed and presented in such a way that it is clear that it is a marketing communication (Section 3.31 and 3.32). This **includes stating that marketing communications should not be presented as**, for example, market research, consumer surveys, **user-generated content, private blogs**, or independent reviews if their purpose is marketing, i.e. the promotion of a product. The code also states that marketing should **avoid exaggeration** (4.1), and **not exploit inexperience or lack of consumer's knowledge** (4.4)

Specifically related to Financial Services and Products: Rules 13.5 and 13.6 are clear in highlighting that marketing communications should clearly highlight “in a prominent manner” **that the value of investments is variable and, unless guaranteed, can go down as well as up** and that past performance or experience does not necessarily give a guide for the future.

The ASAI has also issued a guidance note on the Recognisability of influencer marketing communications.⁵

However, the ASAI operates with **moral suasion** – it is a self-regulatory body and advertisers / firms voluntarily sign-up. Additionally the **ASAI does not have scope over marketing communications in foreign media** and many of the crypto firms, or the sources of the advertising is based outside of Ireland. As such, the ASAI is not empowered to comprehensively and tangibly tackle aggressive advertising in the crypto sector.

COMPETITION AND CONSUMER PROTECTION COMMISSION CCPC

The CCPC is the statutory body responsible for promoting compliance with, and enforcing, competition and consumer protection law in Ireland.

The CCPC is empowered by the Consumer Protection Acts (2007, 2014, and 2022) and the Consumer Rights Act 2022 requires firms to be transparent in all dealings with consumers and places a wide range of responsibilities on firms. Under the CPA's it is a criminal offence to make a false or misleading claim about goods, services and prices and the CCPC is empowered through these various acts to enforce these legal requirements.

Social media influencers and bloggers have the same legal responsibilities to consumers when they are act on behalf of a business – for example, promoting or advertising the goods or services of a business. The CCPC has recently released the results of its survey and research on Influencer Marketing⁶.

Under the [Ireland for Finance Action Plan 2022](#) within the theme, Fintech and Digital Finance there is a commitment to deliver on priority actions including the development of educational resources to support consumers to engage with fintech. The CCPC, informed by the Department of Finance will lead on the development of these educational resources. While the Central Bank does not have

⁵ <https://www.asai.ie/wp-content/uploads/ASAI-Guidance-Note-Recognisability-of-Influencer-Marketing-Communications-Feb-21.pdf>

⁶ <https://www.cpc.ie/business/wp-content/uploads/sites/3/2022/12/2022.12.12-172837-CCPC-Influencer-marketing-report.pdf>

responsibility for financial literacy, we are providing technical support to the CCPC, as they fulfil their financial literacy mandate on fintech.

At the start of February, the CCPC launched their awareness campaign on crypto and the Bank is supportive of this campaign⁷.

CENTRAL BANK OF IRELAND

The Bank monitors advertising by regulated entities. The over-arching principles of the advertising requirements of the Consumer Protection Code 2012 (“the Code”) is that regulated entities produce advertising that is ‘clear, fair, accurate and not misleading’.

In the case of crypto, the crypto sector is currently unregulated and as such does not come under the remit of the Bank, and this includes Crypto services provided by MiFID firms – we can’t extend regulation to them.

The Bank recognises that ensuring consumers are protected against aggressive advertising requires new thinking. As such, within the Bank several discussions are ongoing.

1. Recent and upcoming chew session to discuss next steps to solidify the Banks position around crypto.

Appendix 2: Steps by other regulators:

Spain: CNMV:

In January 2022, the Spanish Official State Gazette (BOE) published the CNMV Circular on the advertising of crypto-assets for investment purposes, which establishes the rules, principles and criteria to which this advertising activity must be subject.

The Circular entered into force on February 17, 2022 and defined the rules on the content and format of the promotional messages of crypto-asset campaigns⁸. The rules provide for **requirements**

⁷ The links to the videos are as follows:

Twitter:

<https://twitter.com/CCPCIreland/status/1623302414668267522>

<https://twitter.com/CCPCIreland/status/1622618152189165570>

Instagram:

<https://www.instagram.com/p/CoU3LuWt5fR/>

<https://www.instagram.com/p/CoZuS5CAfKC/>

FB:

<https://www.facebook.com/CCPC.ie/videos/743093870397467>

<https://www.facebook.com/CCPC.ie/videos/640561867835378>

⁸ Exemptions apply where crypto-assets have the nature of financial instruments, when not used for investment purposes, certain “utility tokens” and solely non-fungible tokens, “white papers” of new issuances, certain presentations and publications of analysts or workshops, and corporate advertising campaigns when they comply with certain requirements.

around promotional messaging for crypto campaigns, that they be fair and clear and not misleading, but also that they must include the following warning: ***"Investments in crypto-assets are not regulated. They may not be appropriate for retail investors and the full amount invested may be lost"***. Additionally, the rules established a mandatory procedure for prior communication to the CNMV of mass advertising campaigns addressed to 100,000 people or more while importantly providing the tools and procedures to make the supervision of the advertising activity of crypto-assets effective.

Belgium:

On 8th February the [REDACTED] announced new rules around crypto advertising. The new royal decree on this sector will ensure that every advertisement will include a warning on the unreliable nature of this investment stating: ***"Virtual currencies, real risks. The only guarantee in crypto is risk."*** Other concrete measures are also set out, including that **advertising should also comprehensively mention all the potential risks that consumers may face** by investing in virtual coins, and **if a well-known person is included in the ad, it must state clearly that the person receives compensation**. The financial watchdog **FSMA will strictly monitor** whether the rules are being followed to ensure virtual coin advertising is not misleading or inaccurate.

Singapore: MAS:

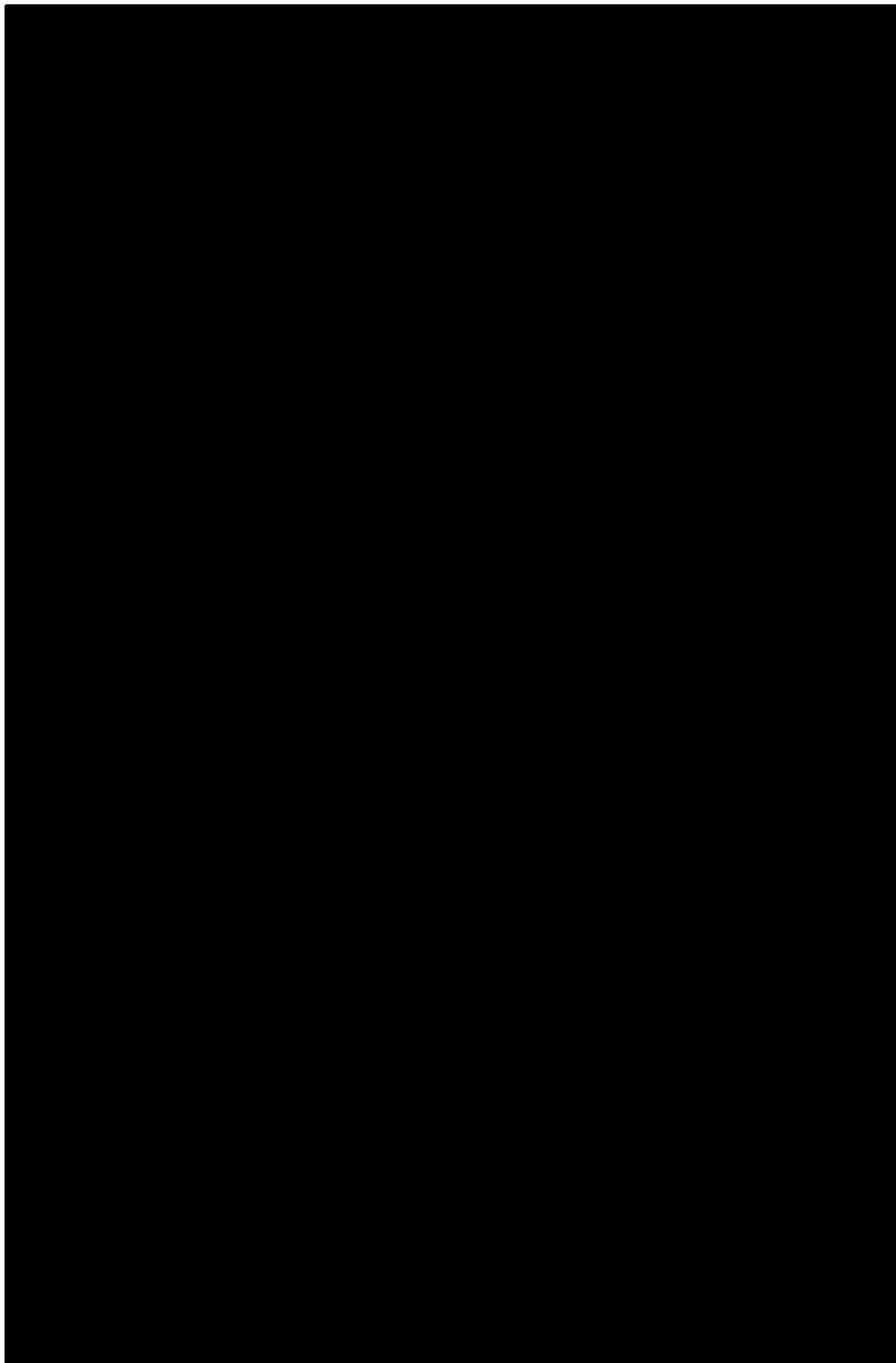
MAS in Singapore⁹ has issued guidelines stating that Digital payment tokens (DPT) service providers **can only market or advertise on their own corporate websites, mobile applications or official social media accounts**. MAS guidelines outline that DPT service providers **should not engage in marketing or advertising of DPT services in public areas in Singapore**. This includes through advertisements on public transport, public transport venues, public websites, social media platforms, broadcast and print media, or provision of physical ATMs **or through the engagement of third parties such as social media influencers to promote DPT services to the general public in Singapore**.

UK: FCA:

The UK¹⁰ plans to legislate to address misleading crypto-asset promotions and with this, adverts will be brought into line with other financial advertising, ensuring they are fair and clear. This will be done via secondary legislation to amend the Financial Promotion Order, which sets out the investments and activities to which the financial promotion regime applies. Under the Financial Services and Markets act 2000, a business cannot promote a financial product unless they are authorised by the FCA or the PRA, or the content of the promotion is approved by a firm which is. Firms that wish to promote such investments and activities must comply with **binding rules that financial promotions must be fair, clear, and not misleading**. This will provide the Financial Conduct Authority with the appropriate powers to regulate the market more effectively. **The FCA will shortly be consulting on their proposed financial promotions rules that will apply to crypto-assets**.

⁹ <https://www.mas.gov.sg/news/media-releases/2022/mas-issues-guidelines-to-discourage-cryptocurrency-trading-by-general-public#:~:text=But%20the%20trading%20of%20cryptocurrencies,that%20target%20the%20general%20public.%E2%80%9D>

¹⁰ <https://www.gov.uk/government/news/government-to-strengthen-rules-on-misleading-cryptocurrency-adverts>





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Record 10



Chew Session: Crypto

The Problem

Retail consumer purchase of highly risky speculative unbacked crypto

Retail consumer lack of knowledge in the crypto sphere

Retail consumers face the potential to lose all or most of their money

Facilitated By

Aggressive advertising techniques

Misleading information

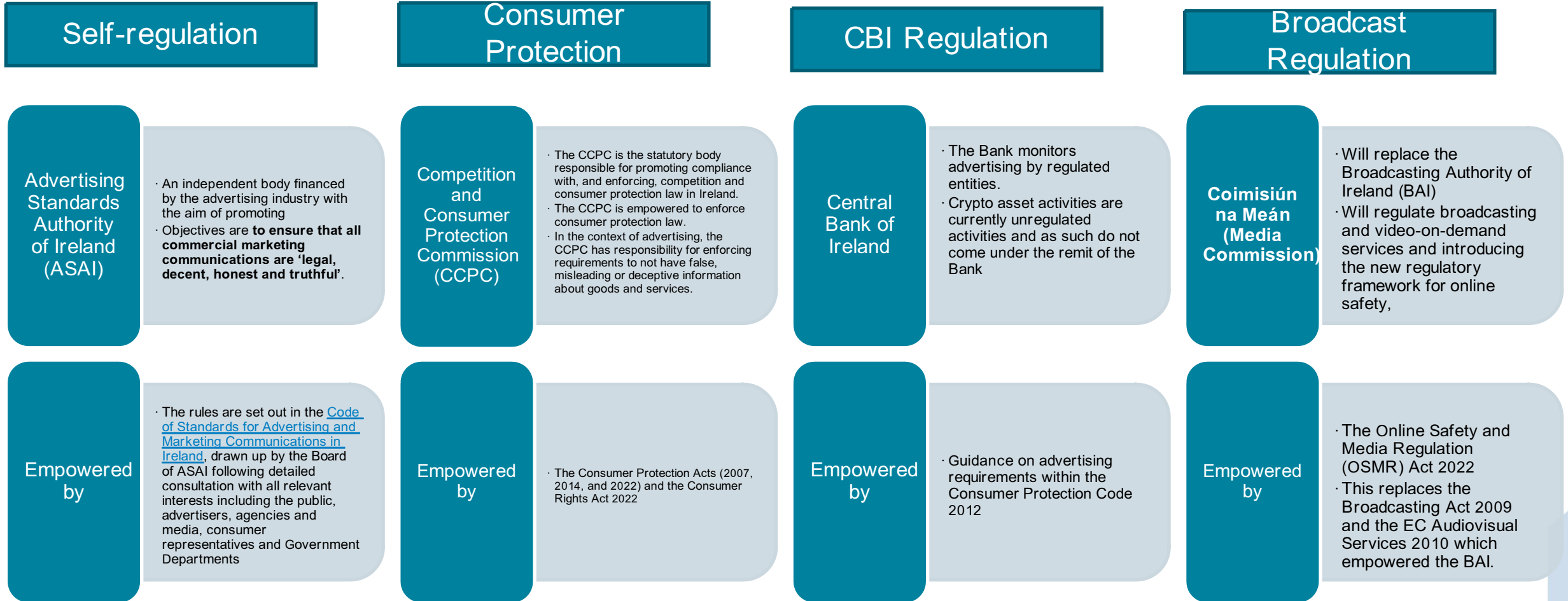
Question



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Current advertising regulatory framework in Ireland



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Current Actions being taken

Monitoring

- In 2022 the CCPC launched its Social Media Influencers survey and research

Education

- In February 2023, the CCPC launched their awareness campaign on crypto

Guidance

- In 2021 the ASAI issued a guidance note on the Recognisability of influencer marketing communications
- In 2022, the ASAI found in favour of two complaints made about outdoor advertising for crypto currency. One complaint related to the absence of a warning that the value of the currency could rise or fall. The Committee considered that the advertising was in breach of Section 13.5 of the ASAI Code on advertising.

Warnings

- The Bank continues to reiterate its perspective through speeches, responses to media queries and PQ's, and through warnings, that unbacked / speculative crypto is not suitable for consumers.

Gaps still existing

Undisclosed paid skills

- In 2022 the CCPC launched its Social Media Influencers survey and research

Education

- In February 2023, the CCPC launched their awareness campaign on crypto

Guidance

- In 2021 the ASAI issued a guidance note on the Recognisability of influencer marketing communications

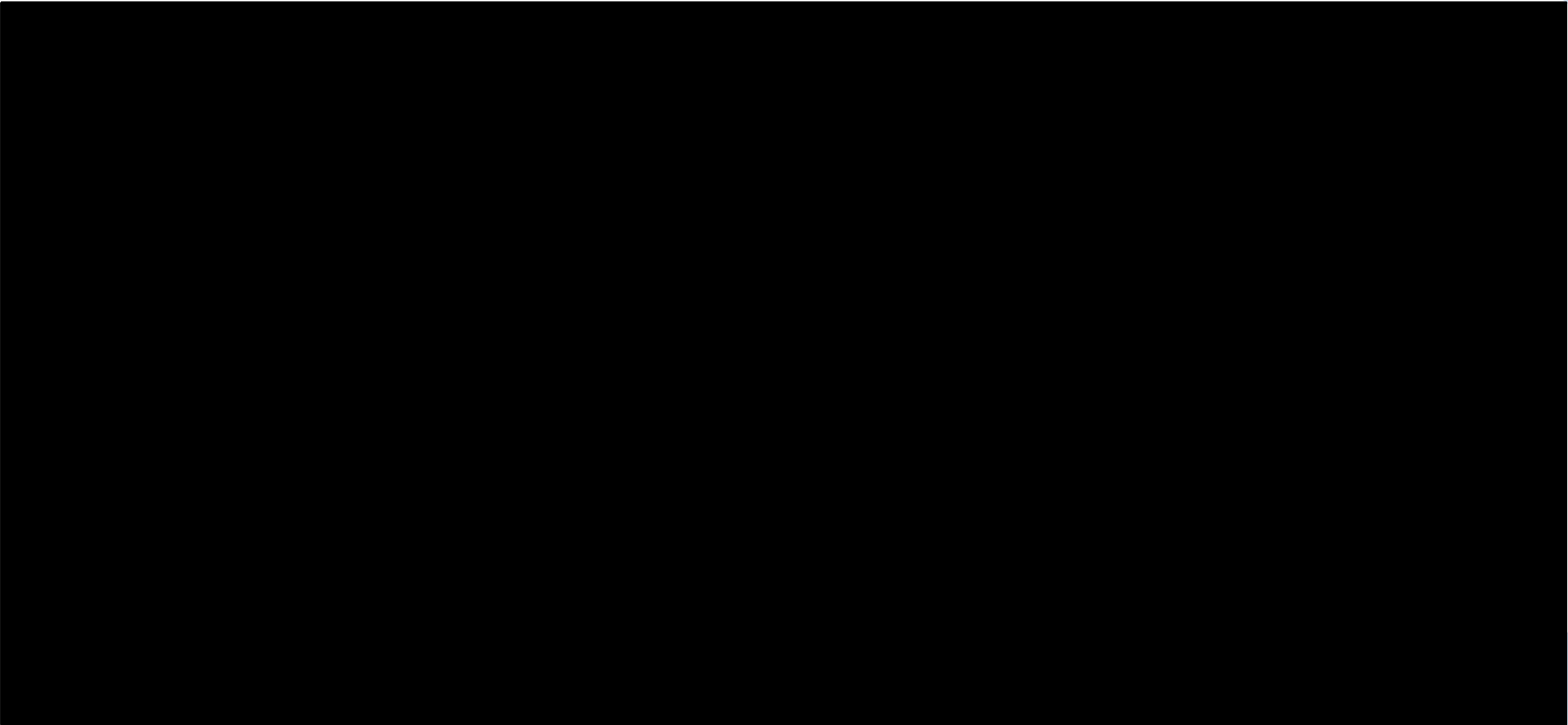
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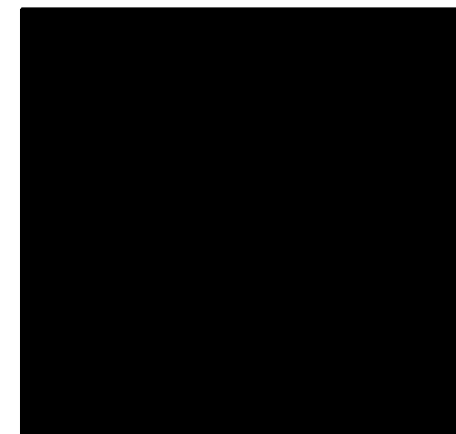
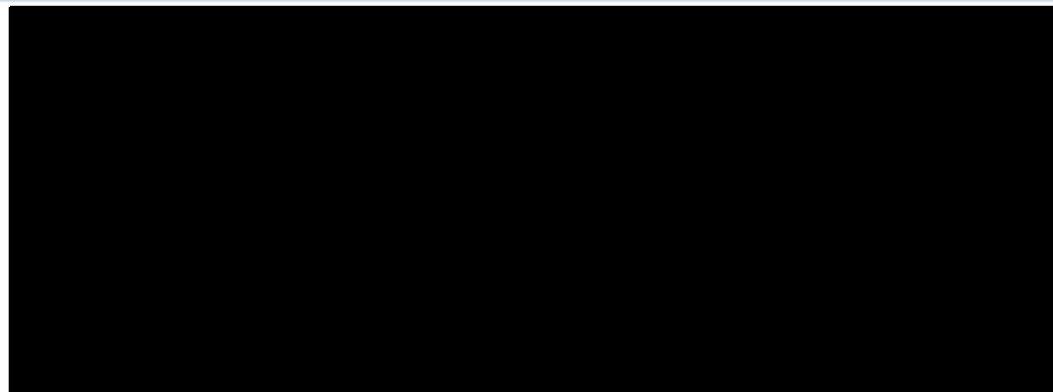
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Techniques

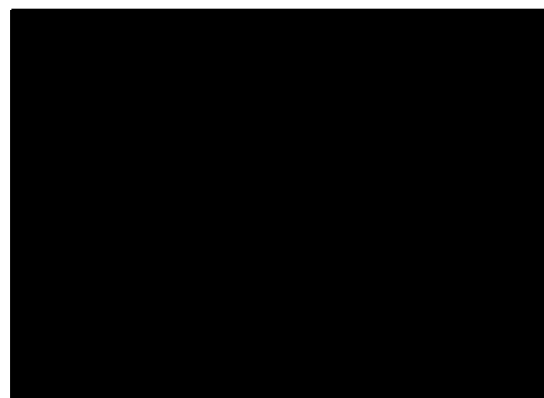
Advertising strategies and techniques used are complex, advanced and strongly leverage behavioural economics to incentivise engagement and purchase

- Influencer marketing
- Paid social marketing
- Organic social media
- Data-backed strategy development
- Sourcing top-performing niche creators
- Campaign coordination, communication, and logistics
- Paid media amplification
- Experiential activations
- SEO (search engine optimisation)
- Email marketing
- Press release
- Video production
- Branding
- Mobile app development



Ads are often without stating influencer is paid

Often using channels and social media outside regulators natural space for engagement



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Platforms banned crypto ads early!



Google

- In June 2018 Google updated its policy to no longer allow crypto currencies and related content including but not limited to, ICO's crypto currency exchanges, cryptocurrency wallets and crypto currency trading advice
- In 2022, Google updated its policies to allow advertisers offering Cryptocurrency Exchanges and Wallets targeting France, Germany, South Korea, the Philippines, United Arab Emirates, Hong Kong and Thailand when they specific requirements and are certified by Google.



Twitter

- In 2018 Twitter updated its policy regarding paid advertising of products. From then the advertising of crypto ICO's and cryptocurrency token sales are prohibited globally



Facebook

- In 2018 Facebook updated its policy and Facebook ads may not promote cryptocurrency trading or related products and services without written permission. Advertising of crypto currency token sales is forbidden.



Amazon

- In 2019, Amazon updated its policy prohibiting adverts for cryptocurrencies, cryptocurrency exchanges, ICO's and binary options.



LinkedIn

- In 2019, LinkedIn updated its policy to prohibit content on cryptocurrency and prohibit adverts relating to the buying, selling or trading of crypto currencies.



TikTok

- In 2021 TikTok so announced that promotions of financial services, including cryptocurrencies, were banned. Subsequently, they implemented a system that automatically blocks videos violating its policies.
- However TikTok embraces NFTs.



Netflix

- Netflix is planning a cheaper ad-based streaming service to launch in 2023, but has confirmed that crypto commercials on this ad-based streaming service will be banned.

So where do consumers get their crypto information?

Social Media

Word of Mouth

Crypto exchanges

Crypto focused media

How many of these channels are you on?

- AppLovin
- Blog
- Discord
- Instagram
- ironSource
- Medium
- Mixer
- Pinterest
- Podcast
- Quora
- Reddit
- Snapchat
- Spotify
- Telegram
- Twitch
- Twitter
- Unity Ads
- Weibo
- WhatsApp
- YouTube
- YouTube Advertising

Who puts it there?

Agencies

- NeoReach
- NinjaPromo
- OmniAgency
- Coinbound
- CrowdCreate
- ICODA
- CryptoPR
- Dapixel
- CryptoVirally
- Blockchain App Factory

These are global companies for a global product base

Agency Services

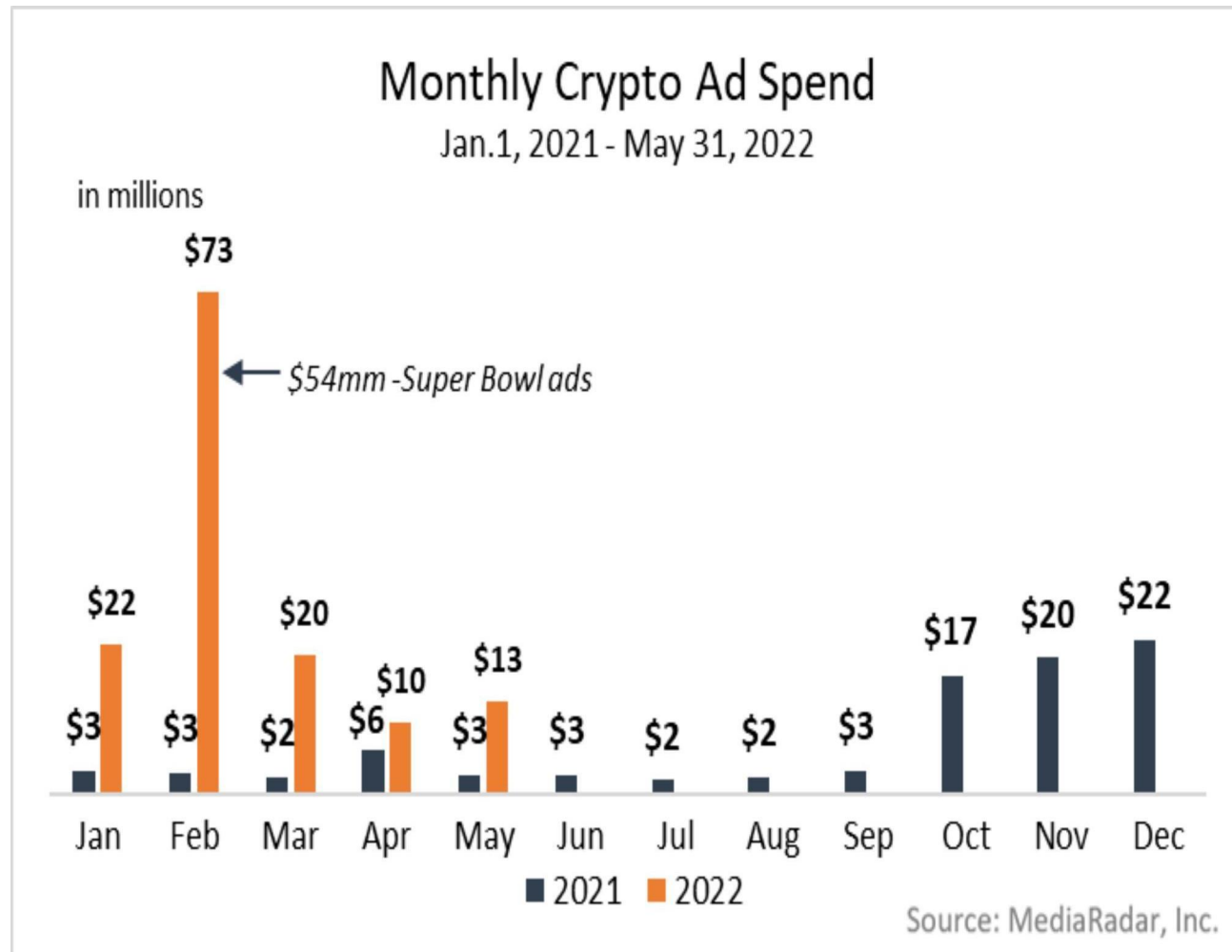
- Extensive expertise due to a powerful team of specialists
- Evaluation of the market situation in order to offer the customer the best end-to-end marketing effectiveness
- Social Media Full-Suite Management
- Social Ads Marketing
- Guerrilla Marketing
- Discord/Telegram Management
- Influencer Marketing
- Research & Branding
- Community Building



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Crypto advertising spend has fallen over the Crypto winter



Crypto advertising has dropped 80% from its peak in Q1 2022



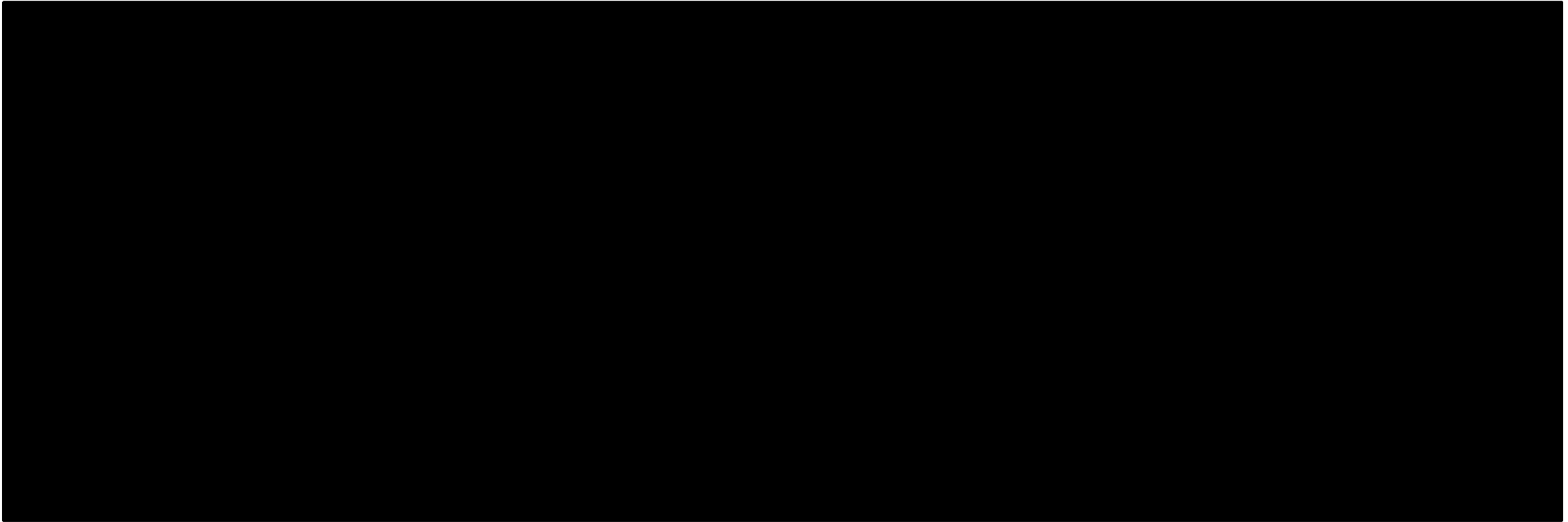
Whats the problem
Whats the solution
How to action
Expected outcomes

<https://www.cnbc.com/2022/11/30/crypto-crash-may-leave-ad-supported-businesses-with-hole-in-budget.html>



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<https://medium.com/the-capital/how-to-advertise-your-cryptocurrency-to-the-masses-when-all-major-ad-platforms-such-as-google-87d860de408>



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What is the problem

- Retail consumer purchase of highly risky speculative unbacked crypto

Who is targeted?

- Consumer purchase of highly risky speculative unbacked crypto

How its facilitated

- Use of aggressive advertising techniques
- Leveraging behavioural economics
- Agency
- Crypto Add network
- Word of mouth

When

- Consumer purchase of highly risky speculative unbacked crypto

Where is it deployed

- Social media
- Advertising has dropped –
- <https://digiday.com/marketing/advertising-has-taken-a-hit-the-crypto-crisis-has-created-an-advertising-vacuum/>

Why

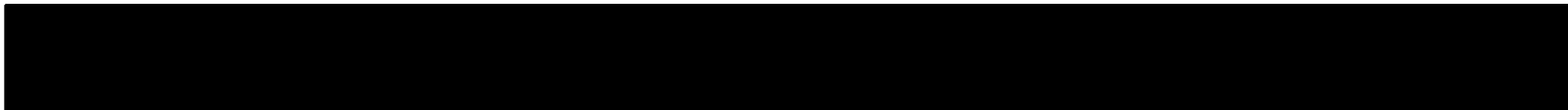
- Consumer purchase of highly risky speculative unbacked crypto



■ ASAI

■ BAI

■ CCPC



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Channels

- Amazon
- AppLovin
- Blog
- Discord
- Facebook
- Google
- Google Ads
- Instagram
- ironSource
- LinkedIn
- Medium
- Mixer
- Pinterest
- Podcast
- Quora
- Reddit
- Snapchat
- Spotify
- Telegram
- TikTok
- Twitch
- Twitter
- Unity Ads
- Weibo
- WhatsApp
- YouTube
- YouTube Advertising

Services

- Social Media
- Paid Social
- Paid Media
- SEO
- Influencer Marketing
- PR & Outreach
- Video Production
- Video Marketing
- Branding
- Community Management
- Website Development
- Mobile App Development
- Web Design
- Mobile App Design
- Blockchain Development
- Attention to details
- Extensive expertise due to a powerful team of specialists
- Evaluation of the market situation in order to offer the customer the best end-to-end marketing effectiveness
- Social Media Full-Suite Management
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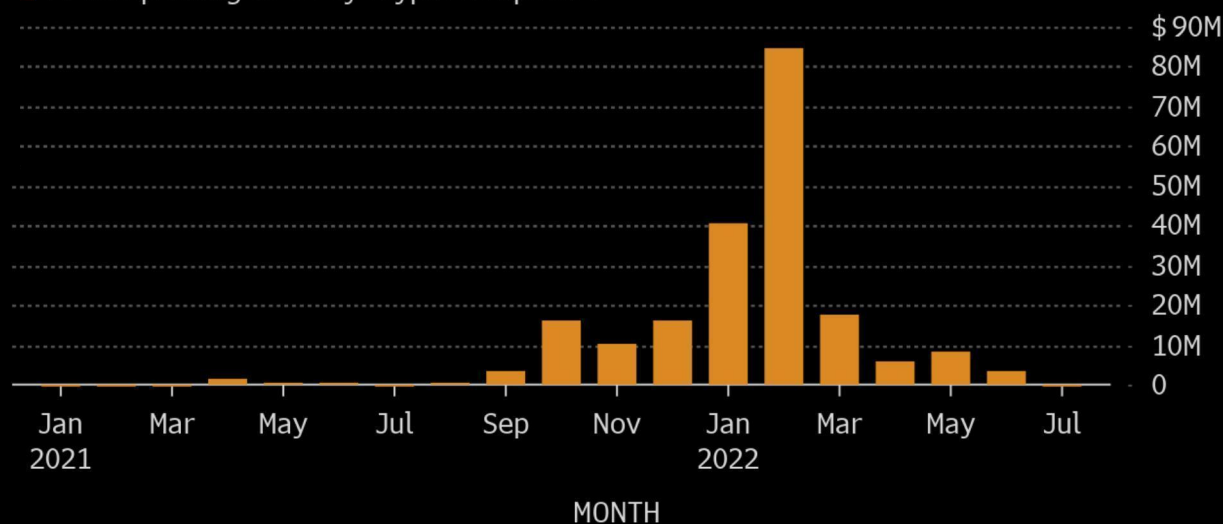
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Highs and Lows

Crypto firms have drastically cut US TV marketing

■ TV ad spending in US by crypto companies



Source: iSpot

Data includes Coindesk, Crypto.com, FTX, eToro, Gemini, CoinFlip and Grayscale.

Bloomberg



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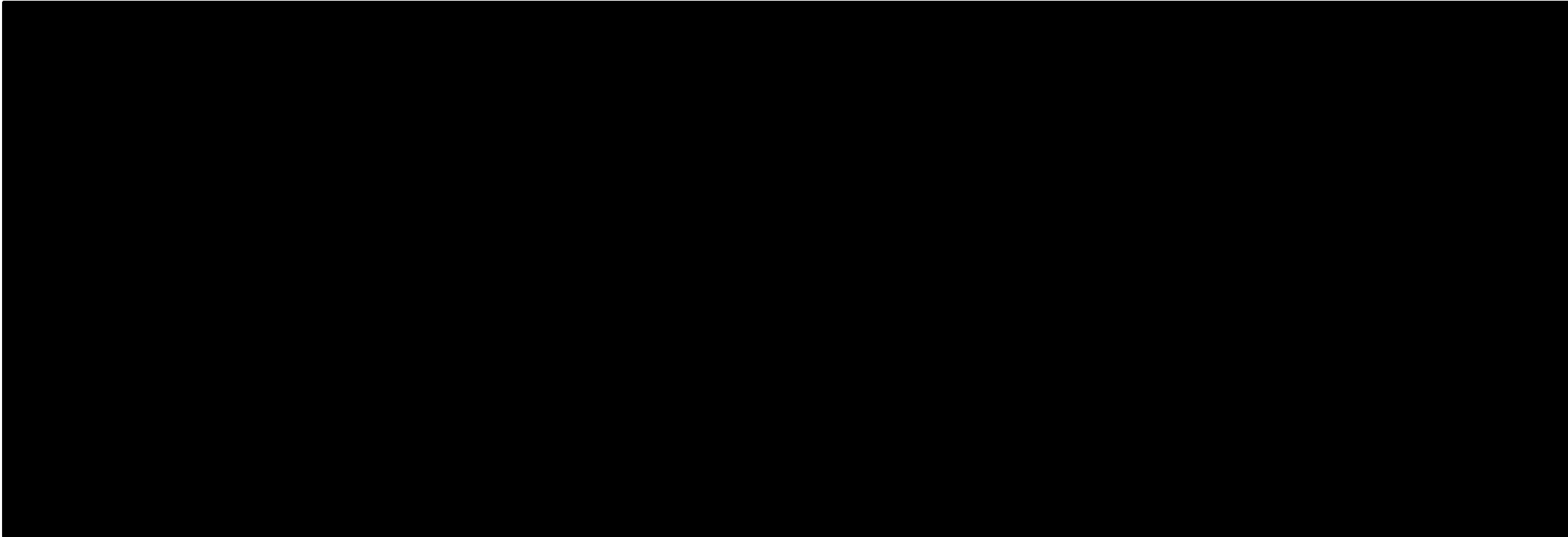
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- MAS in Singapore has issued guidelines stating that Digital payment tokens (DPT) service providers **can only market or advertise on their own corporate websites, mobile applications or official social media accounts**. MAS guidelines outline that DPT service providers **should not engage in marketing or advertising of DPT services in public areas in Singapore**. This includes through advertisements on public transport, public transport venues, public websites, social media platforms, broadcast and print media, or provision of physical ATMs **or through the engagement of third parties such as social media influencers to promote DPT services to the general public in Singapore**.
-
- **UK: FCA:**
- **The UK plans to legislate to address misleading crypto-asset promotions and with this, adverts will be brought into line with other financial advertising, ensuring they are fair and clear**. This will be done via secondary legislation to amend the Financial Promotion Order, which sets out the investments and activities to which the financial promotion regime applies. Under the Financial Services and Markets act 2000, a business cannot promote a financial product unless they are authorised by the FCA or the PRA, or the content of the promotion is approved by a firm which is. Firms that wish to promote such investments and activities must comply with **binding rules that financial promotions must be fair, clear, and not misleading**. This will provide the Financial Conduct Authority with the appropriate powers to regulate the market more effectively. **The FCA will shortly be consulting on their proposed financial promotions rules that will apply to crypto-assets**.
- <https://www.mas.gov.sg/news/media-releases/2022/mas-issues-guidelines-to-discourage-cryptocurrency-trading-by-general-public#:~:text=But%20the%20trading%20of%20cryptocurrencies,that%20target%20the%20general%20public.%E2%80%9D>
- <https://www.gov.uk/government/news/government-to-strengthen-rules-on-misleading-cryptocurrency-adverts>

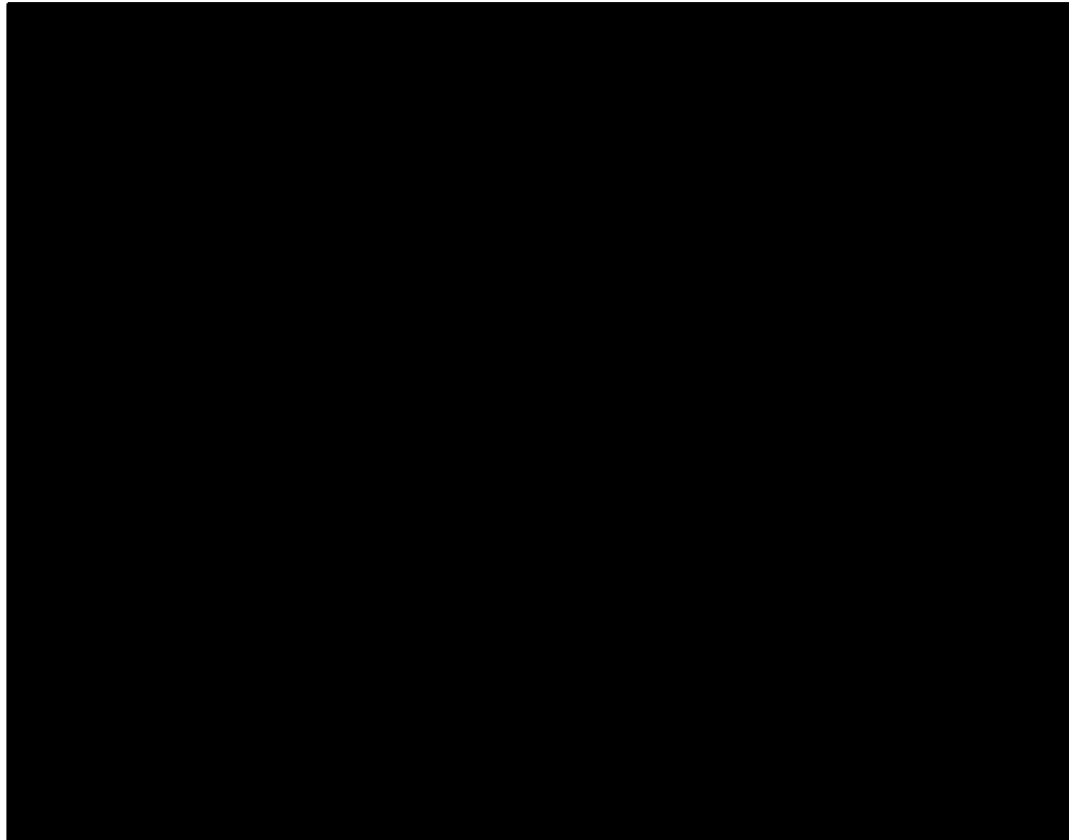


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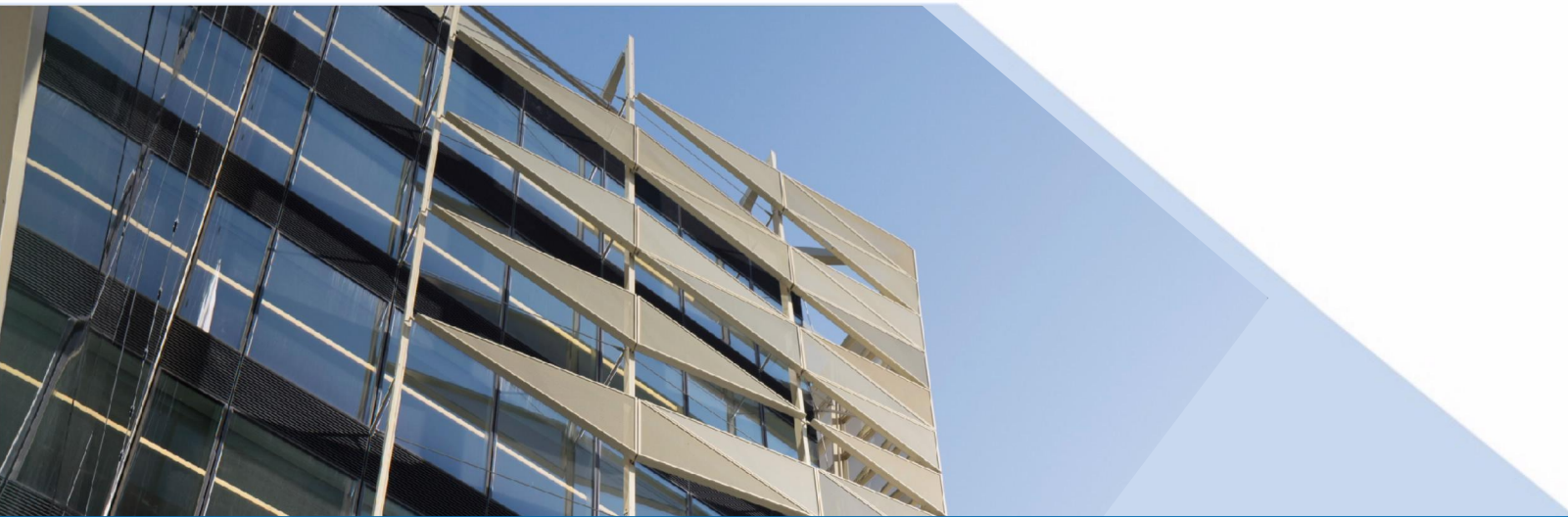
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Record 11

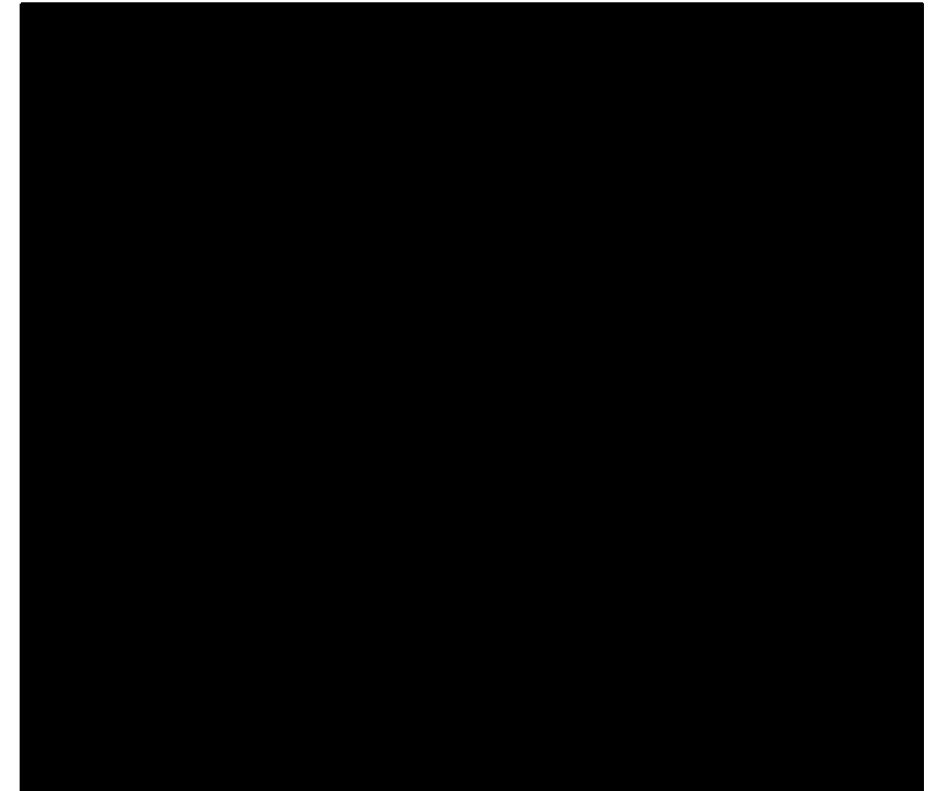
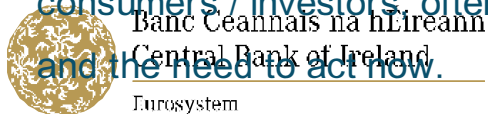


Chew Session: Crypto –Possible Actions For Discussion– Pre-reading material

6 March 2023

Chew Session in January

- The series of crypto crashes throughout 2022 have been **informative** in that they have highlighted how key risks in the sector manifested.
- The discussion was informed by the **advancing risks from lack of consumer protections in place, the dangers from aggressive advertising practices, the growth of sectoral contagion, and the challenges from a poor culture around conduct**, governance and transparency within the sector.
- There was a recognition that the Markets in Crypto Assets regulation will mitigate some risks arising from crypto, and will include provisions around the marketing and advertising of crypto, but it was acknowledged that this regime will not be in play fully (due to its phased nature) for up to 24 months.
- As such, **the discussion considered on the currently increasing risk from the aggressive advertising practices within the sector, including the use of “finfluencers”** and gaming techniques to sway consumers / investors, often praying on lack of consumer knowledge **and the need to act now.**



MiCA: A Reminder

MiCA: An important step towards mitigating key risks around crypto



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MiCA: A Reminder

A 'Europe fit for the digital age' is a top priority under the current Commission presidency

The Digital Finance Package (released in Oct 2020) seeks:

1. to make the EU a leading global, independent, technological, and digital player
2. to enable trust in digital finance solutions, ensuring they work for consumers and maintain financial stability.

MiCA, as part of this package is a comprehensive and landmark regulation bringing a harmonized approach to the regulation of crypto assets.

The EU is ahead of the curve. MiCA is now been seen as template in the US and UK as they seek to develop their framework.

The Bank is fully supportive of the harmonized approach MiCA will take and will implement as designed.



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MiCA Purpose

MiCA will provide for regulatory obligations and requirements in respect of a broad range of services, including:

- trading platforms for crypto-assets;
- the exchange of crypto-assets for fiat currency or for other crypto-assets;
- custody of crypto-assets;
- receiving and transmitting orders for crypto-assets;
- the execution of orders for crypto-assets on behalf of third parties; and advice on crypto-assets.

The regulations will apply to anyone providing any of the above activities within the EU.

MiCA also brings clarity to 3 types of crypto assets and brings them into the regulatory sphere for the first time:

- Asset referenced Tokens – (ARTs) (Multi-asset stablecoin)
- E-Money Tokens (EMTs) (Single currency stablecoin)
- Utility Tokens

MiCA Objectives

- 1: Legal certainty.
- 2: Support innovation.
- 3. Consumer and investor protection and market integrity.
- 4. Ensure financial stability.

MiCA an Overview

For the first time issuers of crypto assets such as Asset Referenced Tokens or E-Money Tokens will come into the regulatory sphere.

MiCA will introduce new obligations including:

- Redemption rights for holders
- White paper
- Regulatory approval prior to launch
- Vetting of Key Management
- Prior approval for marketing communications
- Prudential requirements including reserve of assets, own funds, and liquidity requirements

MiCA is likely to become applicable for **issuers of EMTs and ARTs in Q2/3 2024 (12 months from publication of regulation)**

For the first time Crypto Asset Service Providers will come into the regulatory sphere.

MiCA will introduce new obligations including:

- To act fairly and in the interest of clients
- Governance requirements
- Prudential & organisational requirements
- Safekeeping of assets and funds
- Complaint handling procedures
- Preventing and managing conflicts of interests
- orderly wind-down policies
- Outsourcing requirements

MiCA is likely to become applicable for **CASPs in Q1 2025 (18 months from publication of regulation)**

MiCA will grant additional enforcement powers to NCA's including the ability to:

- suspend its offering of services
- make a public notice that the CASP is failing compliance
- suspend advertisements
- invite auditors
- issue fines
- issue bans on members of management.

Furthermore, Anti-Money Laundering requirements will also apply

MiCA is in the final stages and is expected to go to the EU Parliament for approval in April. Following that, MiCA is expected to come into **full effect by Q4 2024/Q1 2025.**



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The Bank's Position

While the Bank notes the potential benefits from DLT and blockchain technologies and is open to backed crypto, the Bank discourages unbacked crypto for retail investors finding the risks too high.



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Position: crypto as a speculative instrument marketed to the public is highly to be discouraged

For Discussion at the Chew Session: Possible actions before MiCA is implemented (i.e. 2023-2025)

Marketing

(Consumer Protection Approach)

1. Address advertising/marketing
2. Issue warnings and consumer information

MiCA will put in place obligations and requirements for crypto asset service providers and the issuers of crypto-assets, including E-Money Tokens, Asset Referenced Tokens and utility tokens, helping to address many of the current risks



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Marketing of Unbacked Crypto to Retail Consumers

The Problem

Retail consumer purchase of highly risky speculative unbacked crypto

Retail consumer lack of knowledge in the crypto sphere

Retail consumers face the potential to lose all or most of their money

Facilitated By

Aggressive advertising techniques

Misleading information

Lack of a consumer protections

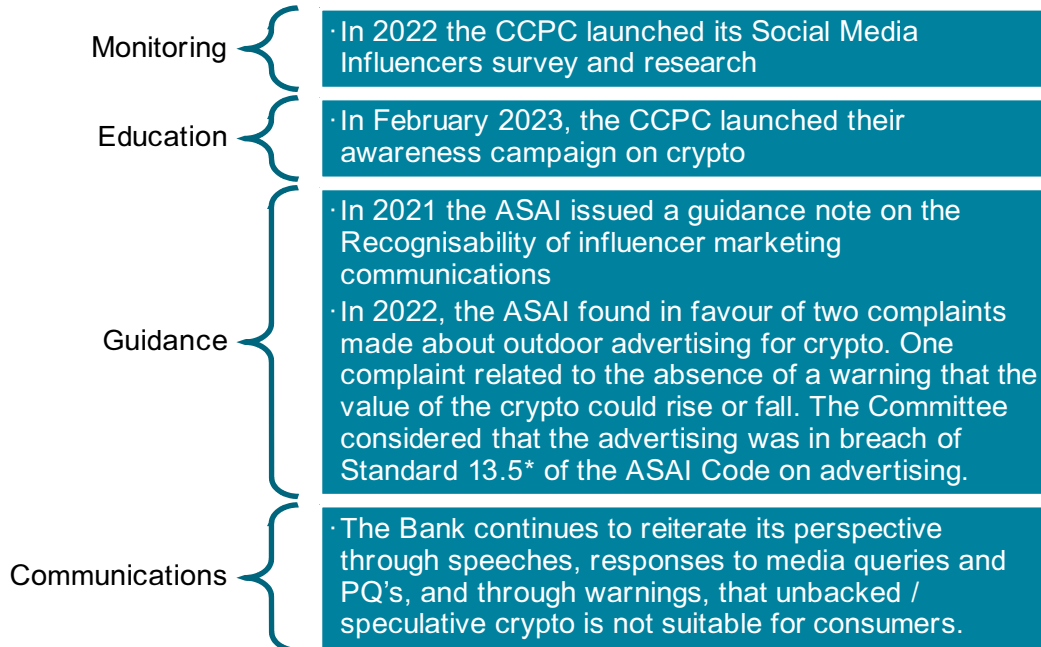
Question



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Current Actions



*Standard 13.5 of the ASAI Code:

Marketing communications should make it clear in a prominent manner that the value of investments is variable and, unless guaranteed, can go down as well as up. If the value of the investment is guaranteed, details should be included in the marketing communication.

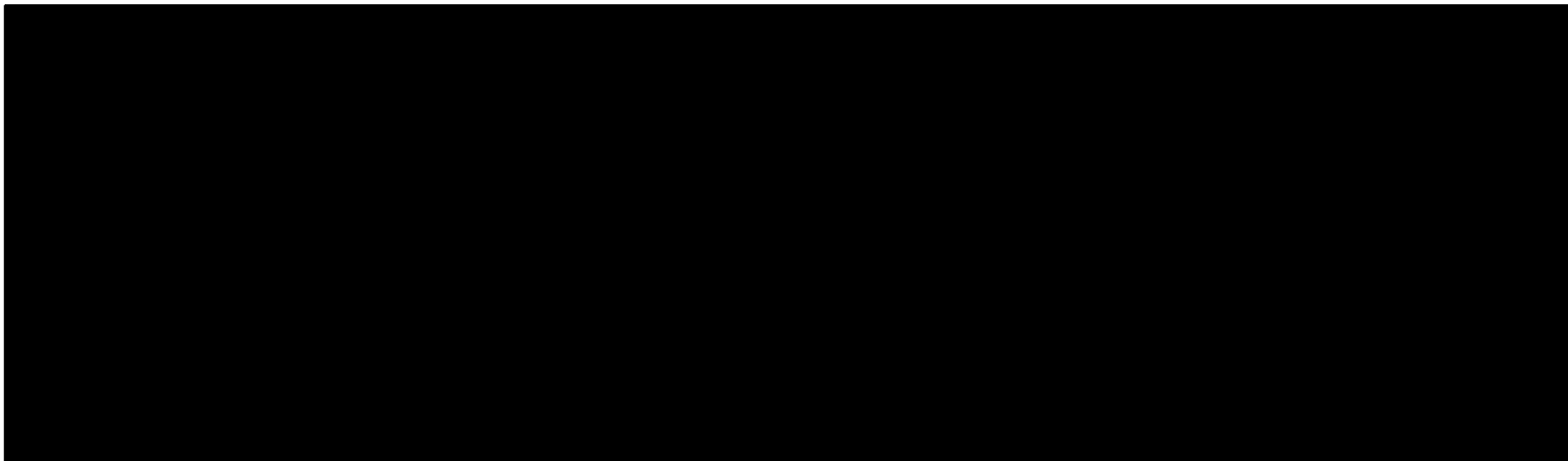
Gaps Remaining

- **Undisclosed paid shilling:** In many cases influencers are not disclosing they are being paid for their promotion. Enforcement is led by the CCPC.
- **“Education”** is often provided by non-qualified people, mainly online and often through platforms not normally within regulators reach, e.g. Discord, Telegram
- **Advertising mainly online and originates outside the state (and EU):** Ireland is a small market for crypto. A 2021 CCPC survey estimated that 12% owned crypto, while a more recent ECB survey estimates this figure at 6%. While some direct Irish based advertising exists (Etoro TV campaign, Floki billboard, bus, train campaign) the vast majority of advertising is US based and accessed by Irish consumers online.
- While MiCA will introduce obligations around marketing and advertising, MiCA will not be fully implemented until H1 2025 – until then crypto remains unregulated and the current steps are not addressing the specific risks to consumer protection.



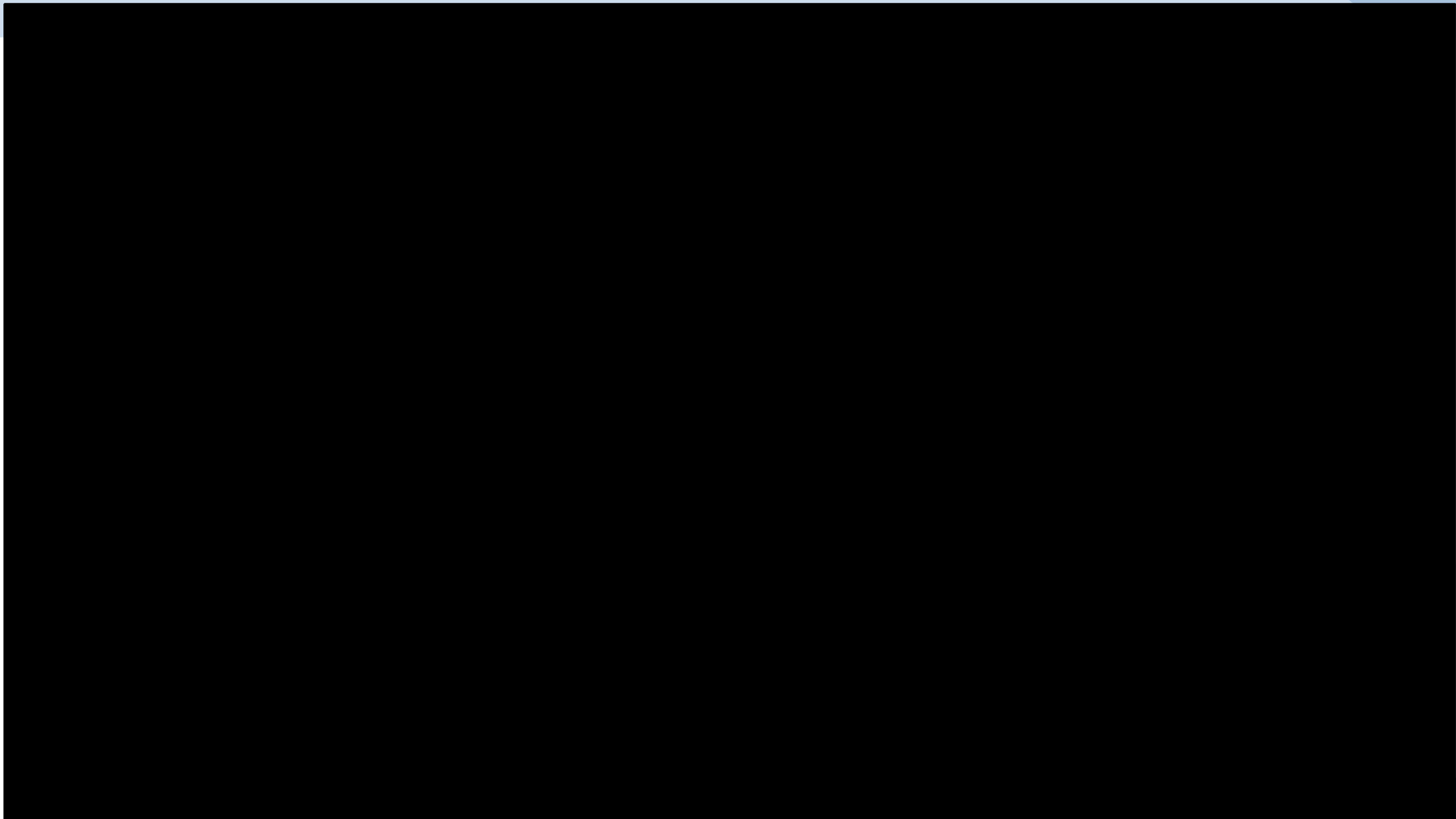
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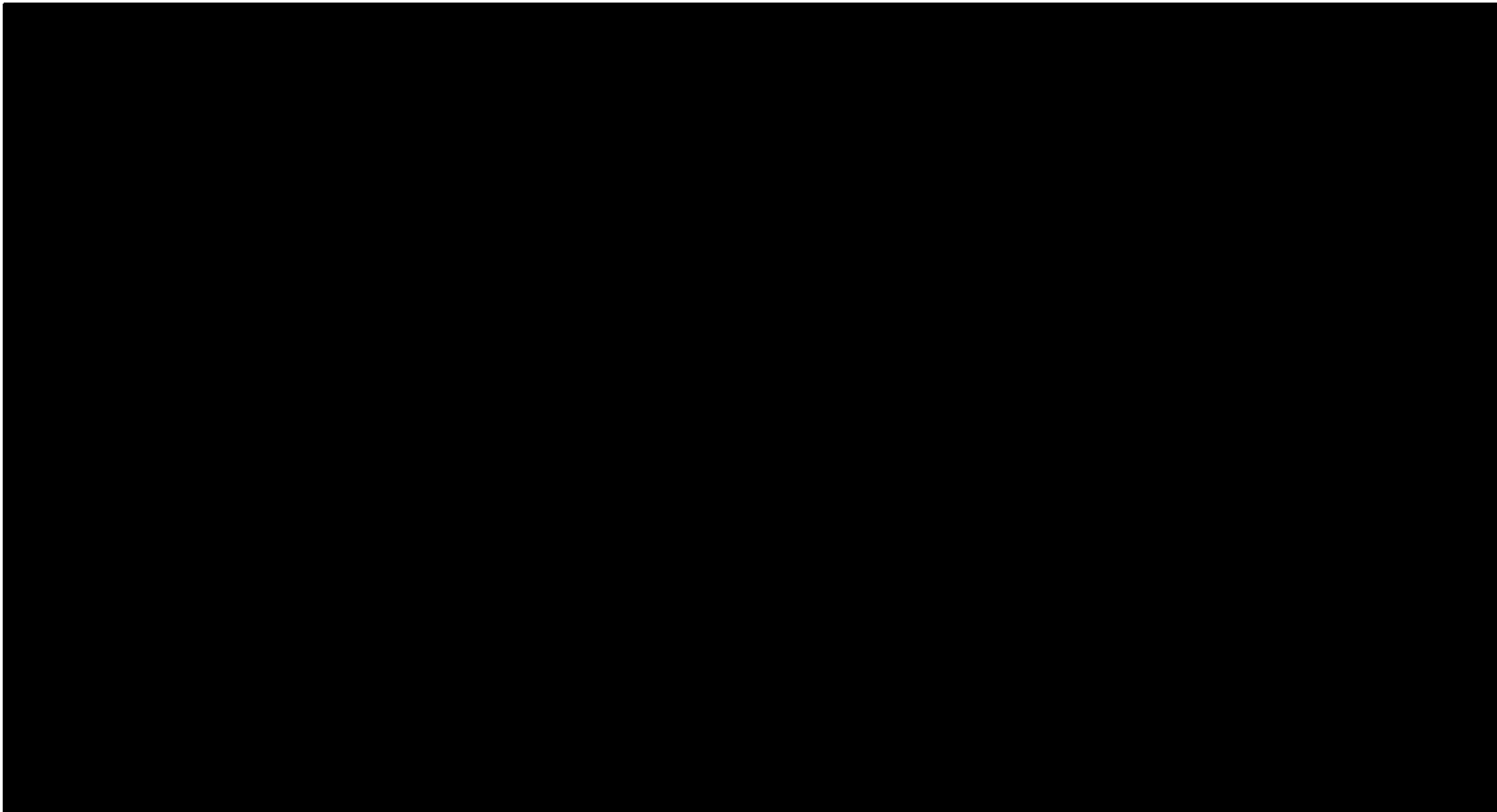
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Conclusion and Next Steps

What are the primary recommendations and how can we move forward to action them?



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Recommended Actions

Educate

- Focus on financial literacy – to counter mis-information, issue consumer information and warnings, including CCPC's current crypto campaign
- Actively promote/target consumer warnings via the same social media platforms where crypto advertise
- Education piece for consumers: What will MiCA mean for me.
- Start in Q2 2023

Communicate

- To consumers: This includes, utilising blogs, an advanced crypto web-page, the Financial System Conference, speeches and media responses.
- To industry: Develop a strong and targeted communications strategy and campaign to communicate our risk appetite and our approach to MiCA.
- To industry: Be clear to industry our expectations and risk appetite.
- Start in Q2 2023

Regulate

- MiCA will address many of the current issues and is the primary regulatory solution
- In the transition phase, we will:
 - Engage regularly with industry on MiCA implementation
 - Advocate for convergence across NCAs during transition
- Communicate to consumers on the protections within MiCA (linked to Educate and Communicate above)
- Already started – phased approach to Q1 2025



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Appendix slides

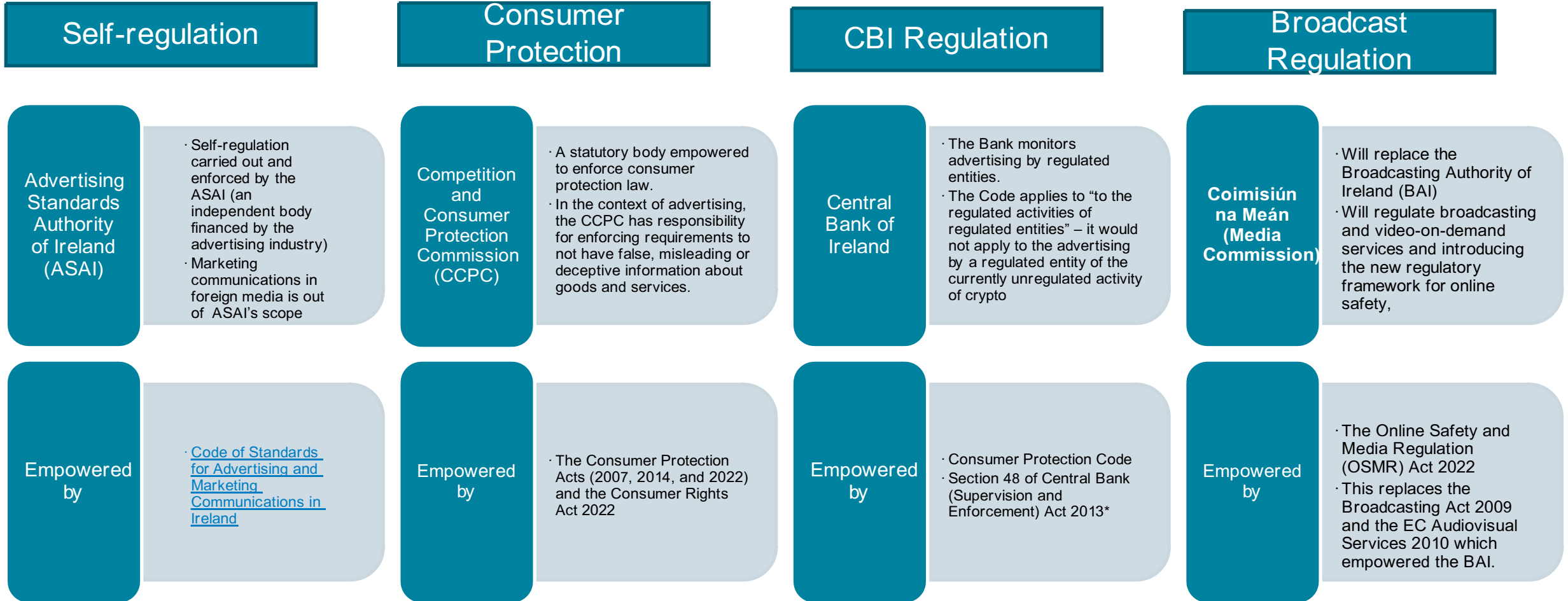
For information



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Current Advertising Regulatory Framework in Ireland



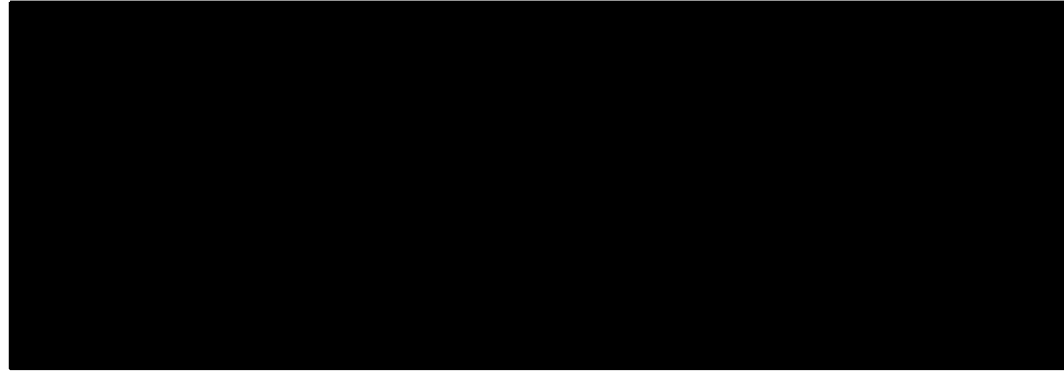
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Techniques

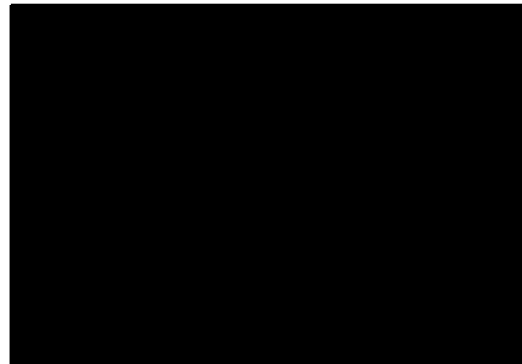
Advertising strategies and techniques used are complex, advanced and strongly leverage behavioural economics to incentivise engagement and purchase

- Influencer marketing
- Paid social marketing
- Organic social media
- Data-backed strategy development
- Sourcing top-performing niche creators
- Campaign coordination, communication, and logistics
- Paid media amplification
- Experiential activations
- SEO (search engine optimisation)
- Email marketing
- Press release
- Video production
- Branding
- Mobile app development



Ads are often without stating influencer is paid

Often using channels and social media outside regulators natural space for engagement



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Platforms banned crypto ads early!



Google

- In June 2018 Google updated its policy to no longer allow crypto currencies and related content including but not limited to, ICO's crypto currency exchanges, cryptocurrency wallets and crypto currency trading advice
- In 2022, Google updated its policies to allow advertisers offering Cryptocurrency Exchanges and Wallets targeting France, Germany, South Korea, the Philippines, United Arab Emirates, Hong Kong and Thailand when they specific requirements and are certified by Google.



Twitter

- In 2018 Twitter updated its policy regarding paid advertising of products. From then the advertising of crypto ICO's and cryptocurrency token sales are prohibited globally



Facebook

- In 2018 Facebook updated its policy and Facebook ads may not promote cryptocurrency trading or related products and services without written permission. Advertising of crypto currency token sales is forbidden.



Amazon

- In 2019, Amazon updated its policy prohibiting adverts for cryptocurrencies, cryptocurrency exchanges, ICO's and binary options.



LinkedIn

- In 2019, LinkedIn updated its policy to prohibit content on cryptocurrency and prohibit adverts relating to the buying, selling or trading of crypto currencies.



TikTok

- In 2021 TikTok so announced that promotions of financial services, including cryptocurrencies, were banned. Subsequently, they implemented a system that automatically blocks videos violating its policies.
- However TikTok embraces NFTs.



Netflix

- Netflix is planning a cheaper ad-based streaming service to launch in 2023, but has confirmed that crypto commercials on this ad-based streaming service will be banned.

So where do consumers get their crypto information?

Social Media

Word of Mouth

Crypto exchanges

Crypto focused media

How many of these channels are you on?

- AppLovin
- Blog
- Discord
- Instagram
- ironSource
- Medium
- Mixer
- Pinterest
- Podcast
- Quora
- Reddit
- Snapchat
- Spotify
- Telegram
- Twitch
- Twitter
- Unity Ads
- Weibo
- WhatsApp
- YouTube
- YouTube Advertising

Who puts it there?

Agencies

- NeoReach
- NinjaPromo
- OmniAgency
- Coinbound
- CrowdCreate
- ICODA
- CryptoPR
- Dapixel
- CryptoVirally
- Blockchain App Factory

These are global companies for a global product base

Agency Services

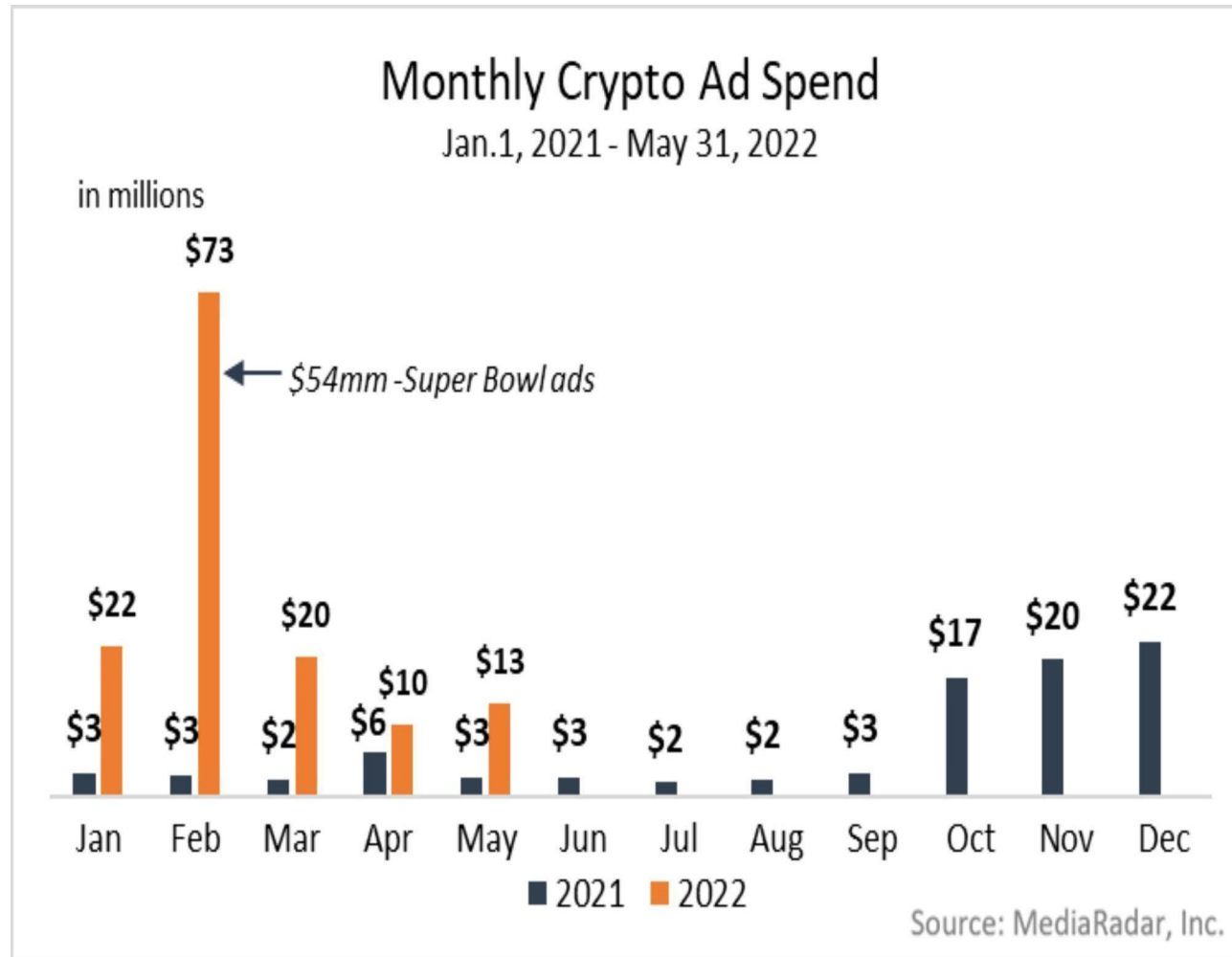
- Extensive expertise due to a powerful team of specialists
- Evaluation of the market situation in order to offer the customer the best end-to-end marketing effectiveness
- Social Media Full-Suite Management
- Social Ads Marketing
- Guerrilla Marketing
- Discord/Telegram Management
- Influencer Marketing
- Research & Branding
- Community Building



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Crypto advertising spend has fallen over the Crypto winter



Crypto advertising dropped 80% by mid 2022 from its peak in Q1 2022



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Memorandum

Record 25

Key Messages

1. It would be very helpful to gain insight from [REDACTED] regarding developments in the crypto sector. [REDACTED]
2. The Central Bank has commenced its preparation for the implementation of MiCA and has established a cross-sectoral team to integrate MiCA into the Central Bank's supervisory and authorisation approach. At this juncture, it is not possible to discuss our implementation approach in detail. However we are focused on creating the regulatory context in which the potential benefits of innovation for consumers, investors, businesses and society can be realised, while the risks are effectively managed and mitigated.
3. Our key priorities as outlined in our recent cross industry letter includes providing a clear, open and transparent authorisation process through active and constructive engagement with industry and other stakeholders. As well as consulting on our approach to Innovation that will include an exploration of new ways of engagement with innovators and their products;
4. Our key regulatory and supervisory priorities will underpin our implementation of MiCA and will center on assessing and managing risks to the financial and operational resilience of firms in order to safeguard stability and protect consumers. In particular, in the PIEMI sector where customer funds are not subject to the DGS.
5. From a PIEMI authorisation and supervisory perspective, our key areas of focus centre on safeguarding, governance and risk management, business model and strategy, operational and outsourcing risk and AML/CTF risk. To note from a governance perspective, our expectations is that firms demonstrate substantive presence locally and that PCF roles are held by candidates with appropriate seniority and which meet the Fitness and Probity requirements of the Central Bank. Our recent PIEMI Dear CEO letter outlines the issues we are experiencing in the PIEMI sector which is driving our priorities.
6. [REDACTED]

In very final stages of MiCA and following publication in the official journal, the entry into force is now estimated 1st July.

7. [REDACTED]
8. Not all crypto are equal, and the Bank will be focused on the utility and the sustainability of business model. In considering crypto products, the Bank differentiates between backed crypto and unbacked crypto. The Bank is open towards the potential of backed crypto, including Electronic Money Tokens and Asset Reference Tokens under MiCA, where appropriate reserves and controls are in place (as will be required under the MiCA regulatory framework). However, the Bank has concerns about the considerable negatives associated with crypto that is unbacked (or poorly or unreliably backed), is widely and intensively marketed and promoted for consumer purchase, and is increasing in their linkages to the wider financial system.



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To:

[REDACTED]

Date: 24 April 2023

Re: Briefing on

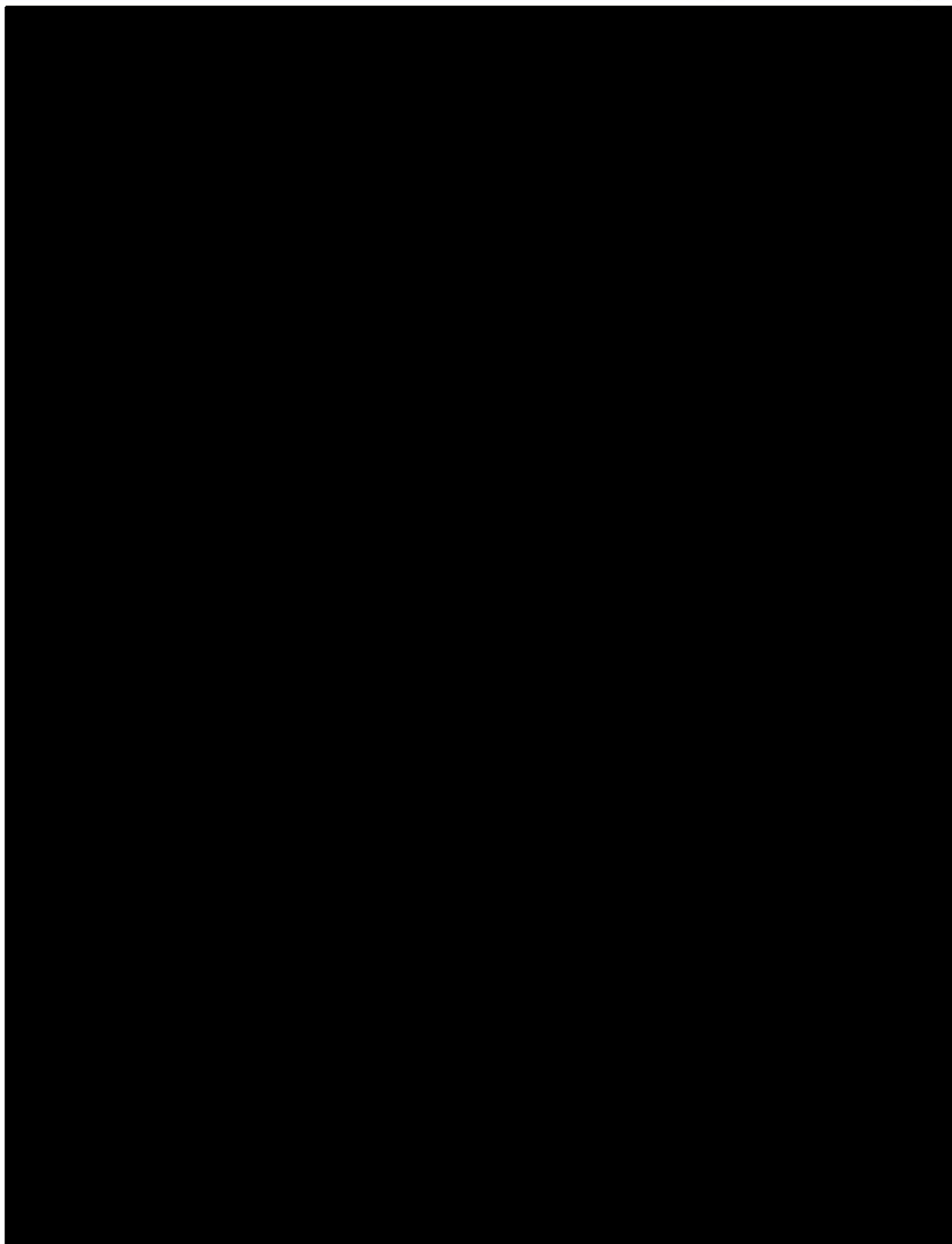
[REDACTED]

[REDACTED]



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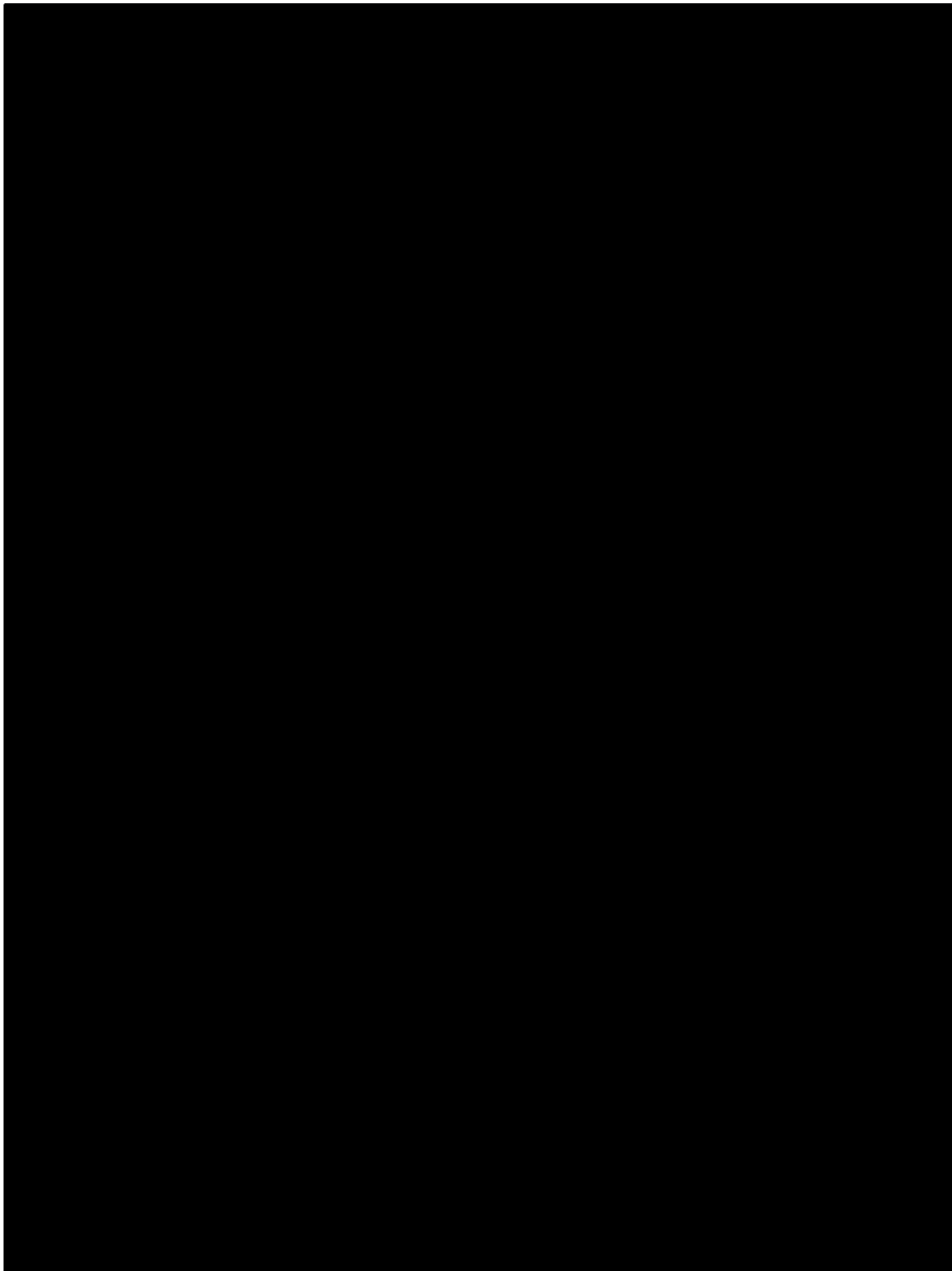
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Markets in Crypto-Assets (MiCA) Regulation

On 20 April, in a final legislative step the European Parliament voted in favour of MiCA, meaning the regime is now officially in effect across the EU. The European Supervisory Authorities (ESAs) will soon start developing RTSs that will provide greater granularity on the provisions in MiCA. Thereafter, the ESAs will consult with stakeholders on those proposed texts. MiCA is expected to become applicable for CASPs by end '24. A transition period is provided for CASPs operating within national law prior to the date of application (18 months after entry into force) to continue to operate for up to 18 months or until authorisation has been granted, whichever is sooner.

The Central Bank has commenced its preparation for the implementation of MiCA and has established a cross-sectoral team to integrate MiCA into the Central Bank's supervisory and authorisation processes and methodologies. The Central Bank continues to monitor developments related to crypto- assets.

However, our key regulatory and supervisory priorities will underpin our implementation of MiCA. In that regard, our recent [Dear CEO letter](#) to all industry sectors as well as our [PIEMI industry specific Dear CEO letter](#), clearly articulates those priorities and include:

1. Providing a clear, open and transparent authorisation process through active and constructive engagement with industry and other stakeholders. We are focused on creating the regulatory context in which the potential benefits of innovation for consumers, investors, businesses and society can be realised, while the risks are effectively managed and mitigated.

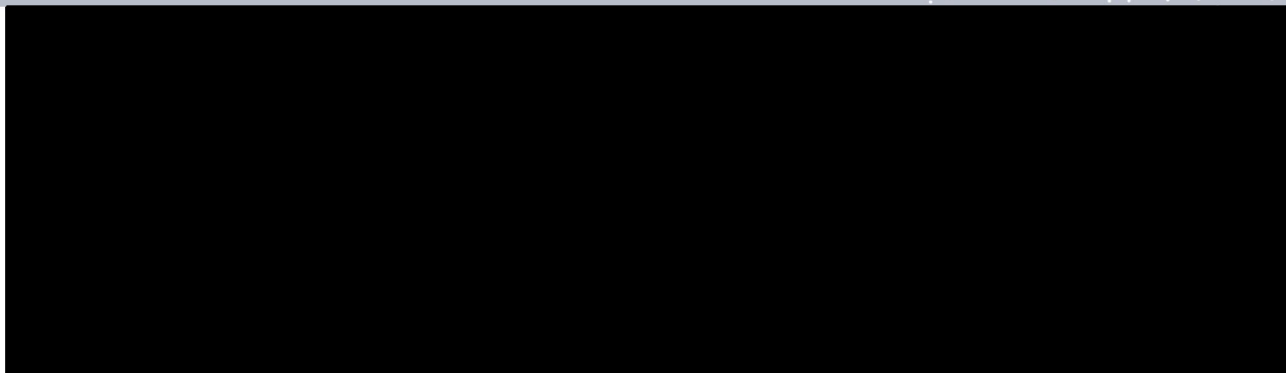


2. Assessing and managing risks to the financial and operational resilience of firms in order to safeguard stability and protect consumers. From a PIEMI authorisation and supervisory perspective, our key areas of focus centre on safeguarding, governance and risk management, business model and strategy, operational and outsourcing risk and AML/CTF risk.
3. Consulting on our approach to Innovation that will include an exploration of new ways of engagement with innovators and their products;
4. Ongoing focus and vigilance around the integrity of the financial system and preventing misuse through detecting and sanctioning market abuse, supervising firms' compliance with AntiMoney Laundering/Combating the Financing of Terrorism obligations and administering and enforcing financial sanctions (working closely with An Garda Síochána and other relevant bodies in all these areas);
5. Contributing to progressing European regulation, particularly the review of the Payment Services Directive (PSD2) and the functioning of open banking as well as Implementing new EU regulations on digital operational resilience (DORA) and markets in crypto assets (MiCA);



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Appendices





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Appendix 2 - MiCA

Type of entity	CASP	Credit Institution	Investment firm	E-money Institution	Central Securities Depository	Management company of UCITs or Alternative fund manager	Market operator
Authorisation	Yes	No if already authorised under CRD	No if already authorised under MiFID	No if already authorised under EMD	No if already authorised under CSDR	No if already authorised under UCITSD or AIFMD	No if already authorised under MiFID
Services for which it can be authorised	All	All	Equivalent to MiFID investment services – excludes transfer services	Custody and administration; transfer	Custody and administration	Reception and transmission of orders; Advice; Portfolio management	Operation of a trading platform
Notification	Yes, at least 40 working days before starting to provide crypto-asset services						
Conduct of business rules	Yes, including obligation to act honestly, fairly and professionally						
Min. capital requirement <small>*depends on the service provided</small>	Up to €150,000 or one quarter of the fixed overheads of the preceding year	Up to €150,000 or one quarter of the fixed overheads of the preceding year	Up to €150 000 or one quarter of the fixed overheads of the preceding year	Between €50 000 and €125 000 or one quarter of the fixed overheads of the preceding year	€125 000 or one quarter of the fixed overheads of the preceding year	€50 000 or one quarter of the fixed overheads of the preceding year	€150 000 or one quarter of the fixed overheads of the preceding year
Rights of users	Overall, regular provision of clear, comprehensible and transparent information						
Supervision	NCA						
Orderly wind-down	Yes, if provision of custody/administration, operation of a trading platform, exchange, execution of orders and placement.			Yes, if provision of custody/administration	Yes	No	Yes

To: [redacted]
Cc: [redacted]
From: [redacted]
Sent: Mon 24/04/2023 6:53:40 pm
Importance: Normal
Subject: RE: VASP registrations
Received: Mon 24/04/2023 6:53:41 pm

Record 26

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Hi [redacted]

With thanks to [redacted] please see commentary below. We will ensure that commentary is included going forward, apologies for the omission this month.

- To date we have registered 6 VASPs. These firms are registered to provide the following services:
- (i) Provision of exchange services between virtual assets and fiat currencies
 - (ii) Exchange between one or more forms of virtual assets;
 - (iii) Transfer (to conduct a transaction on behalf of another natural or legal person that moves a virtual asset from one virtual asset address or account to another) of virtual assets
 - (iv) Custodian wallet provider

There are currently [redacted]

[redacted]

Regards
[redacted]

From: [redacted]
Sent: Monday 24 April 2023 11:50
To: [redacted]
Cc: [redacted]
Subject: VASP registrations

Central Bank of Ireland - CONFIDENTIAL

Hi [redacted]

I was just going through this slide deck for SRC and I note that the slide on VASPs doesn't outline [redacted]

[redacted]

Conscious of timing, I am happy to do that verbally at the meeting tomorrow if you could give me an outline based on the current pipeline and issues we are seeing of the analysis and comment we would like to outline to SRC – I think it would be something like:

To date we have registered x no. of VASPs – [redacted]

[redacted]

Many thanks.

Enforcement & Anti-Money Laundering Directorate

Central Bank of Ireland

T (+353) 01 224

E

www.centralbank.ie

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linkedin.com/company/central-bank-of-ireland

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