

QUESTION ON NOTICE

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**Question:** 22QW  
**Member:** Thistlethwaite  
**Toipc:** ASIC's role in crypto and initial coin offerings  
**Written**

**Question:**

Would it be right to characterise 'misleading and deceptive conduct' as:

- a. the disclosure of documents like white papers?
- b. Quote: 'drumming up a trading frenzy' - or inflate the perception of the amount of interest in the offering?
- c. Quote: 'Rather than letting the market play out and represent the genuine level of interest, people are fabricating it to create a false sense of interest'?
- d. Quote: 'Buying in when the price is low and then they generate an artificial level of excitement in order to sell out at the peak of that activity. The level of interest will then normalise to its pre-hype stage and the price will go back down'?

**Answer:**

- These may be examples of conduct that may be misleading or deceptive. ASIC has provided guidance in relation to advertising in financial products and services in *Regulatory Guide 234: Advertising financial products and services (including credit): Good practice guidance*.
- ASIC has also obtained a referral of power from the Australian Competition and Consumer Commission in relation to misleading or deceptive conduct that may contravene the Australian Consumer Law. Therefore, our assessment of potentially concerning conduct would also consider whether there may be a contravention of the Australian Consumer Law.