

THE  Creator DB
INTERNATIONAL
GUIDE TO
INFLUENCER
REGULATION



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INDIA

The Indian government introduced influencer regulation about sponsorships in January 2023. Under this new legislation, disclosing if there has been any compensation for a post or piece of content is mandatory. Such disclosure should be included in the caption for image-based content while being in audio and video format it comes to video content. First-time offenders could be fined up to \$12,000 and repeated offenders up to \$61,000. To be able to enforce such measures, the Indian government is in talks with tech companies to deploy crawling algorithms that would catch any infraction.

INDONESIA

Indonesia does not have influencer regulations about sponsorship disclosures.

JAPAN

In Japan, the legal debate about influencer regulations is just starting: the Consumer Affairs Agency (CAA) is looking into regulating stealth marketing, which has been allowed and unregulated. While there are laws and regulations for misleading and deceptive marketing is completely fine to use comments disguised as third parties to promote one's products. But the CAA is changing these practices, and under the new regulations, advertisers who employ stealth marketing would face up to two years of imprisonment. In the meantime, if you want to be sure to be in the right position, you can use the hashtag #PR

MALAYSIA

Malaysia's online advertising is regulated by the Communication and Multimedia Content Forum of Malaysia (CMA). While participation in the agency is voluntary, it can impose fines and penalties for the transgressions of its rulings. In 2022 it updated its regulations regarding influencer marketing. Now, any partnership between a brand and influencers must be clearly disclosed. This also applies to virtual influencers.

THE PHILIPPINES

The Philippines do not have a regulatory framework for influencer marketing, and the only guidelines are established by the Ads Standards Council (ASC). As many other countries in Asia influencer regulations are left to the self-governing body that already establishes procedures for any other form of advertisement. As of now, there are no regulations that make it mandatory to disclose influencers' sponsorships.

SINGAPORE

The Advertising Standards Authority of Singapore (ASAS) established guidelines for sponsored content in 2016: influencers must clearly and directly disclose their sponsored content, which should be easily visible. While the ASAS does not have enforcement powers and the regulation are not binding laws, violating their rule may translate into advertisement time or space withheld from the offending advertising agency. In repeated and particularly egregious cases, ASAS may publicly shame the transgressor.

SOUTH KOREA


In 2020 the Korea Fair Trade Commission (KFTC) amended the Guidelines on Review of Labeling and Advertising Regarding Recommendations and Endorsements, introducing a regulatory framework for influencer regulations regarding sponsored content. The guidelines not only specify that a sponsorship disclosure should be placed for any sponsored post but also that it should be placed near the content in a manner that will be readily noticeable to consumers. The disclosure should be in the image or the caption's first paragraph on photo-sharing platforms like Instagram.

Regarding video content, the disclosure should be in the title or at the beginning or end of the video. But should also be repeated throughout the video to make it evident to those who may only watch it in a clip form. Curiously for Asian influencer marketing regulations, the KFTC has a more lenient approach to "well-known personalities" videos and livestreamed content for whom there is no necessity to repeat the disclosure during the body of the content but only in the beginning or the end.

These guidelines also apply to all the content published before 2020, forcing the content creators to go back through their catalog and edit each sponsored post.

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TAIWAN

For the longest period, Taiwanese influencers had the duty to disclose any special relationship with advertisers or brands. If they had any connection, payment, sample products, or other deals that would have been inaccessible to a normal customer, they needed to disclose it. They could have been fined by the Taiwan Fair Trade Commission (TFTC) for false or misleading representations of goods or services. On March 2023, the FTC amended the Fair Trade Act, and with it implemented some of the most stringent influencer regulations in Asia, now influencers or internet personalities that promote products or services online will be considered on the same level as sellers, making them liable for joint compensation with the supplier if making false claims or fraudulent advertising.

While still requiring influencers to disclose their connections, as most countries do, the TFTC is taking a tough line toward influencers regarding what they are liable for. Influencer deals are regulated with the same framework as other digital marketing avenues. The medium, the influencer, is liable for the information spread as the company that produces and distributes a product or service.

THAILAND

Thailand doesn't have set rules for influencer marketing or digital marketing in general, but if an ad is liable for causing harm, the advertiser could be charged with a criminal offense under the Computer-related Crime Act.

VIETNAM

Vietnam is one of the countries that doesn't have influencers regulation in Asia about disclosure. Because of this, customers have often been targeted by fraudulent and misleading ads, especially regarding financial platforms and beauty products. Nonetheless, Vietnamese youth's trust in influencers is growing and already places them as more trusted than traditional media sources.

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02

EUROPEAN UNION

Austria

Belgium

Bulgaria

Croatia

Cyprus

Czechia

Denmark

Estonia

Finland

France

Germany

Greece

Hungary

Ireland

Italy

Latvia

Lithuania

Luxemburg

Malta

Netherlands

Poland

Portugal

Romania

Slovakia

Slovenia

Spain

Sweden

AUSTRIA

In Austria, the Media Act, and the Code of Ethics created by the Austrian Advertising Council establish that is required to disclose clearly when content is an advertisement.

BELGIUM

In Belgium, influencers are considered on the same level as media service providers, and like them, they need to make commercial communications recognizable. Concurrently who is paying the influencer need to make sure that there is a clear disclosure.

BULGARIA

The Bulgarian National Council for Self-Regulation recommends for any sponsorship be disclosed through the use of dedicated hashtags and in a clear and immediate way.

CROATIA

Croatia does not have specific regulations for influencers but their activities fall under the category of promotional activities. Like other promotional activities sponsored posts need to be clearly identified as such, with the possibility of fines for both influencers and brands violating the Media Act.

CYPRUS

Considering the small population of the country influencer regulation is not at the forefront of the topics debated.

CZECHIA

Czechia had to deal with many influencers promoting tobacco and alcohol products and without any dedicated legislation the pushback has been light and ineffective. The Platform of Professional Communication, a self-regulatory body that covers influencers, agencies, and brands has created a Code of Conduct with best practices. The Code invites the influences to mark the sponsored posts as such, not lie or conceal information about their experience with products and services and respect the laws around regulated products like alcohol, tobacco, and gambling which should not be advertised by anyone with an audience composed for more than 25% by underage people.

DENMARK

Hidden advertisement is illegal in Denmark and this translates to influencers' promotions as well as de-facto making it mandatory for influencers to disclose their partnership and be upfront with their connection to the brands. Recently the Danish Veterinary and Food Administration passed new rules especially aimed at tackling the promotion of foods, prohibiting exaggerated claims and anecdotal evidence for health benefits that could mislead customers.

ESTONIA

The Consumer Protection and Technical Regulatory Authority of Estonia established that influencers' promotions on social media need to be clearly marked as such. Concurrently alcohol and tobacco promotions are not allowed on the personal account of an influencer.

FINLAND


The Finnish Competition and Consumer Authority composed guidelines for influencer marketing on social media in 2019. The guidelines promote the disclosure of advertisement content and paint both the influencer and the sponsor as responsible for the respect of the rules.

FRANCE

In March 2023 France passed new regulations for influencer marketing. Under this framework, influencers can incur high fines (up to €300,000) and even jail time if fail to properly disclose sponsored content. Striving to also address the harmful impact that edited photos have on people's self-esteem and mental health the bill includes an obligation of disclosure also for those instances.

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GERMANY

The case of influencer promotion in Germany has been at the center of a few court decisions that created and shaped how influencers should behave. While it was rapidly clear that any paid promotion, not immediately recognizable as such, should be labeled with proper hashtags in order to inform the potential customers of the sponsored nature of the deal, German courts had variable takes in regard to unpaid promotions. If the influencer buys the product themselves or receives it for free should they still disclose it as a partnership? Ultimately the court decided that the only way to not have to disclose is if it is proven that the brand mentioned in the post had no influence in the judgment expressed. Since it is easier said than done, the safest approach is to disclose it as sponsorship even when there is no monetary transaction between the influencer and the brand.

GREECE

Greek influencers don't need to comply with any specific law but they are bound to the Hellenic Advertising Communications Code that imposes the disclosure of promotional material making the marking of sponsored content as such mandatory.

HUNGARY

Hungary's Competition Authority requires influencers to disclose their sponsorships and keeps both the influencer and the brand liable in case of violations.

IRELAND

Ireland influencers are self-regulated under the Advertising Standard Authority for Ireland (ASAI) which requires commercial content to be tagged as such. In the past, the ASAI publicly shamed those influencers who didn't comply with the practice.

ITALY

The Istituto di Autodisciplina Pubblicitaria (IAP) is the self-regulating organ responsible for regulating marketing in Italy. In 2019 they included the "Digital Chart", a collection of best practices before only recommended, in their regulations making it mandatory for influencers to disclose sponsored content through proper use of hashtags.

LATVIA

Latvian authorities require sponsorships to be disclosed via text or orally.

LITHUANIA

Influencer practices aren't the most pressing issue faced by Lithuania, considering that the country in 2020 only had 300 people that would have qualified for the title. But nonetheless, the self-regulating marketing organization created guidelines that encourage influencers to label their sponsored posts with the hashtags #ad or #reklama.

LUXEMBURG

Luxembourg has not instituted any special rule for influencers, but any influencer inside the little principate needs to follow the guidelines of the Autorité Luxembourgeoise Indépendante de l'Audiovisuel (ALIA).

MALTA

No specific regulation has been established around influencers in Malta.

NETHERLANDS

Dutch regulators established that is mandatory for any content creator with over 500,000 subscribers to register with the Media Authority, join the Dutch Advertising Code Authority, and clearly state when content is sponsored by the use of dedicated hashtags. In case of non-compliance Dutch authorities could impose fines of up to €225,000.

POLAND

The Office of Polish Competition and Consumer Protection instituted a series of guidelines after a concerning investigation into social media advertising. Currently, content should be tagged and clearly understandable to be sponsored content. Violation can incur fines of up to 10% of the influencer or brand turnover.

PORTUGAL

No specific regulations have been introduced by Portuguese authorities regarding influencer marketing. Sponsored content falls under the category of commercial communication and requires to be disclosed as such. Therefore the use of hashtags to indicate a partnership is necessary when operating in Portugal.

ROMANIA

Romania does not have special regulations for influencers when it comes to sponsorships.

SLOVAKIA

Slovakian self-regulating agency issued a Code of influencer marketing requiring that sponsorships are fully disclosed and forbid the use of fake reviews.

SLOVENIA

Influencers in Slovenia are not considered media and because of this technicality, they are unaffected by the Mass Media Act and any existing advertisement regulation.


SPAIN

The Asociación para la Autorregulación de la Comunicación Comercial (Autocontrol) establishes what constitutes a commercial post and how it needs to be labeled in Spain. Whenever a post is aimed at promoting products or services, is the result of financial remuneration, or is subject to validation before publication it falls under the Code of Conducts regulation. Autocontrol establishes that posts need to be marked as commercial by explicitly stating it and when possible by also using the features built into the social networks to highlight such cases.

SWEDEN

Swedish regulators, and courts, have established that any kind of sponsored content needs to be marked as such, clearly indicating if the influencer received compensation for the post.

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03

ENGLISH- SPEAKING COUNTRIES

Australia

Canada

New Zealand

USA

United Kingdom

AUSTRALIA

Australian advertising and marketing companies are under a self-regulation model where the Australian Association of National Advertisers (AANA) sets standards and regulations valid for the whole industry. In their Code of Ethics, they state that advertising and marketing communication has to be distinguishable as such, de facto making it mandatory for influencers that promote toward the Australian public to disclose which of their posts are ads.

AANA act upon complaints made by the public to Ad Standards, and if the complaint, once investigated, is found to be substantiated, there is a risk not only to be in infringement of the Code of Ethics but also to the Australian Consumer Law. Breach of Australian Consumer Law can have substantial consequences, with fines of up to AUD\$ 500,000 for individuals and AUD\$ 10 Million for companies.

CANADA

For Canadian-based influencers, the text that makes the rule is the Competition Act, which applies to anyone promoting a product or service. Disclosure is required for any brand an influencer has material connections with. Advertisers, on their hands, are responsible for ensuring that influencers don't make false or misleading claims while promoting their products.

NEW ZEALAND

The Advertising Standard Authority (ASA NZ) is the agency responsible for self-regulating the advertising industry in New Zealand. With the Advertising Standard Code Rule 2(a), ASA clearly states how

"Advertisements must be identified as such," which applies to any influencer operating in or toward the New Zealand market. Appropriate labeling may be done through the use of terms like "ad,"


"Advertisement," or "Sponsored" and is accepted if they are used both in the form of hashtags or not. In 2022 the ASA NZ investigated 46 cases of breach of the Advertising Standard Code by influencers, with 14 of them resulting in a compliance reminder, 7 resulting in the addition of an ad identifier, and the remaining 25 being or already tagged as ads or out of the ASA jurisdiction.

USA

In the United States, the Federal Trade Commission (FTC) is responsible for creating and updating the framework around influencer disclosure. By their regulation, influencers must disclose any relationship with a brand, even if it is not financial. Such disclosure should be placed with the endorsement message, clearly visible/audible, and not hidden at the bottom of the caption. As in many other fields, the US is establishing the benchmark for influencer marketing in English-speaking countries and beyond. The most known case of FTC intervention towards influencers was in the case of CSGOLotto.com, a site that allowed betting using "skins" from Counter-Strike: Global Offensive as wagers to obtain other "skins." Two of the most prominent promoters of the site were also the owners and did not disclose such information. Once the news about their connection to the site broke, the FTC deemed worthy of stepping in and ended up settling out of court in the first case against individual social media influencers.

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UNITED KINGDOM

The United Kingdom has some of the most comprehensive and detailed influencer regulations in English-speaking countries. Influencer marketing finds itself at the crossroad of three different regulators: the Advertising Standard Authority (ASA UK), the Committee of Advertising Practice (CAP), and the Competition and Markets Authority (CMA). When the brand has creative control over what gets published, the sponsorship fall under the jurisdiction of the CAP Code of Ethics, and complaints for the violation of it will be investigated by the ASA. In this case, knowing that ads must be recognizable is most important. But UK regulations cover the case in which a brand does not have control over what it gets published but is just paying for associating their product with an online personality: the CMA requires disclosure for any payment, loan of equipment/service, or incentive received, even if there was no obligation to publish any content from the beneficiary.

04 LATAM

Brazil

Chile

Colombia

Mexico

BRAZIL

Advertising in Brazil falls under the Brazilian Self-Regulation Authority (CONAR), which released the Digital Influencer Advertising Guidelines in 2020. They state that sponsored posts must be disclosed and easily identifiable, especially concerning products targeting children and adolescents. They also state that if the product sponsored has been obtained for free, the influencer must disclose it with an apposite hashtag.

CHILE

In 2022 The Chilean National Consumer Service (SERNAC) created general guidelines on influencers through the "Interpretative Circular on native advertising and influencers." The Circular introduces good practices to protect consumers' rights like disclosure of sponsored content, clear information about the connection between influencer and brand, and truthfulness of the claims.

In addition, the Chilean authority introduced a series of practices aimed at preventing the promotion of stereotypes of gender in advertisements.

COLOMBIA


The Superintendence of Industry and Commerce (SIC) in 2020 introduced the "Guide on good practices in advertising through Influencers." The guide is divided into suggestions for influencers and advertisers: where the advertiser is expected to have an active role of supervision in creating the influencer content, ensuring that good practices are followed. Since these are only recommendations, there is no direct punishment for their infringement but the possibility of incurring customer protection lawsuits.

MEXICO

In Mexico, the debate around influencer regulation is still ongoing. Many consider the two pieces of legislation that regulate advertising: the Code of Ethics in Electronic Commerce and the Federal Consumer Protection Law needing to be more fitting to cover the situation created by influencer marketing. But as of now, there are no proposals to introduce new legislation.

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