



PromoVeritas Influencer Thought Piece

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Using Influencers is an easy way to a global market – think again!

A look at the rules for influencer marketing around the world.

Influencer marketing is now frequently used as a way for brands to target customers and advertise virally for far less cost and quicker results than traditional methods. But there are growing problems and criticisms about its use and agency professionals and marketers need to be aware of how the industry is evolving and the emerging issues. In many countries around the World, fears about misleading the public and adverse effects on young or vulnerable members of society have prompted Governments and regulators to focus their attention on trying to control or regulate influencers. **Jeremy Stern, CEO of PromoVeritas**, experts in global marketing compliance and promotional excellence, examines the current situation and takes us on a whistle-stop tour of some of the rules for influencer marketing around the world.

“If you thought that you could get a famous person to post about your latest product launch or prize competition and it would go viral across borders, and all would be good.....well not quite. Individual countries have some very different rules relating to influencers, and what you do needs to be legal in each of the chose countries, or at least those where you are directly targeting or naming. Here is a topline on the basics:

Australia

Australia is still in the early days of influencer rules, and the Australian Association of National Advertisers (AANA) requires you to treat influencers like any other traditional advertiser, and to “disclose commercial relationships in a clear, upfront manner that can be easily understood”.

Belgium

Influencers must clearly label paid-for endorsements of brands using the words ‘Publicite’ or ‘Reclame’. Failure to do this may result in the content being taken down or a fine of up to 80,000 Euros.

Egypt

A female TikTok influencer was recently sentenced to ten years in prison for violating family values and exploiting young people, so be careful. Whilst some say that this is a breach of freedom of expression, marketers must be sensitive to cultural differences.

France

In France both the influencer and the brand can be held accountable if they do not clearly label paid for posts or adverts – using ‘publicite’, ‘sponsorise par’ or ‘en partenariat avec’. Individuals can face a fine of up to 300,000 euros or 2 years in prison and companies can face a fine of up to 1.5 million euros.

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Germany

Commercial and editorial content must be kept separate. If an influencer receives any compensation for their post, it must be labelled with the terms 'Werbung' or '**Anzeige**' otherwise both the influencer and brand could be held liable and face reputational damages and have to take down the content.

India

In June 2021 the Advertising Standards Council of India released new guidance for influencers that insists they put disclosure in a place where it cannot be missed by the viewer. For instance, if it is a short video the disclosure must stay on screen for a minimum of 3 seconds, for videos longer than 2 minutes the label must stay for the entire duration.

Italy

Again Paid for Influencer posts and marketing communications must be clearly flagged. If an influencer receives any compensation in the form of money or free products their post must be labelled with '**Publicita**' along with a hashtag '**#sponsorizzato**' followed by the name of the brand. Both the influencer and brand can be held accountable if the post isn't labelled and either could face fines up to five million euros or be told to take the post down.

Netherlands

Influencer marketing must be clearly labelled as an advertisement. If the influencer receives any compensation the content must be labelled with a hashtag such as '**#spon**' or '**#paid**'. The influencer or brand can both be held culpable if not done so and may be ordered to take down the content or receive a fine up to 450,000 euros.

Norway

In Norway it is now the law that influencers declare which parts of their bodies have been retouched. The new law will mean that any TikTok, Facebook, Snapchat, Twitter and Instagram posts containing modified size, shapes or skin must carry a declaration of alteration provided by the government and a breach will be fines, or in extreme cases, prison.

Russia

Although there are no mandatory wording or positioning requirements, disclaimers should make it clear to consumers that the content in question is an advertisement. Also using English wording is not advised, instead **#направахрекламы** which translates as advertising.

Saudi Arabia

Social media influencers running paid for ads, have to be licensed by the National Media Council (NMC). The cost of an annual licence is 15,000 dirhams (approx. £2,500). The NMC will issue or renew the licence within 30 days from the date of submitting the application according to the rules.

Spain

Influencer marketing in Spain risks breaking unfair competition laws so it must be clear to consumers whether content is marketing or not. There are no official labels stated in the Spanish law however some appropriate labels may be '**publi**' or '**anuncio**'. Either the influencer or the brand can be held accountable depending on who had editorial control of the post. Influencers or brands could be challenged with a cease-and-desist or face fines up to 601,012 euros or five times the amount of the value of products involved.

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UK – Influencer marketing communications should be clearly identifiable and labelled so that a commercial relationship is made clear. Both the influencer and brand can be held accountable, and the ASA has recently launched a website to name and shame influencers who are breaking the rules. The UK government is currently reviewing influencer culture and is likely to introduce stricter laws to enforce their behaviour.

USA

The USA has strict rules from The Federal Trade Commission to stop deceptive ads about where and how to label adverts using terms like “**advertisement**”, “**ad**” and “**sponsored**”. They have the power to conduct investigations and sue companies and people who violate the law.

And finally ‘virtual influencers’

Yes robots, or computers with Artificial Intelligence are now entering the market and represent a bit of a gap in the system? For example, Lil Miquela, who has 1.6 million Instagram followers, is a computer-generated character and is part of the growing trend of virtual influencers. Virtual influencers are less regulated and the people controlling them aren't required to disclose their geographic presence. This gives them the ability to communicate with their audience without coming under the scrutiny of the law, the laws of any country. Brands are now being faced with the question why use an influencer when you can make the perfect one for your brand from scratch?

Although we've reached the end of the line for this quick trip around the world of influencer marketing rules, the journey is far from over for the marketing industry. The adverse effect of influencers on our mental, physical and financial health can no longer go unchecked and will no doubt soon result in stricter regulation or legislation in most countries. For now the answer for brands, agencies and influencers is to always be transparent about their relationships.

We would also advise using a legal service, like the one offered by PromoVeritas, to ensure you follow the latest rules for your location, to provide a solid contract between the brand and influencer to be clear about what is expected, and to run checks and reviews of influencer posts to ensure that they are not in breach.