



Endorsement Know-How



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The Internet first came to India in 1995. However, it penetrated every household only 20 years later, in 2015, when Reliance Jio launched the yearly no-cost Internet-for-all sim cards. This offer and the subsequent effect on the reduction in price tariffs of all internet service providers started a new era of content consumption in India. This led to the emergence of an unconventional revenue source and an off-beat career path for the Indian diaspora - **"Social Media Influencers."**

Who is an Influencer?

According to the Financial Times, "Individuals/groups who have access to an audience and the power to affect their audiences' purchasing decisions or opinions about a product, service, brand, or experience, because of the influencer's/celebrity's authority, knowledge, position, or relationship with their audience are termed as **"Influencers."**

The Rise in Social Media Influencer Marketing

Following are some key highlights demonstrating the rise of social media influencer marketing:

- Indian social media influencers saw a **46% spike in influencer marketing** during the COVID-19 lockdowns from early 2020 to the end of 2022.
- Social media influencers **earned approximately INR 900 crores in 2021**. As per public reports, **79% of people trust social media influencers, and 34% of Indian consumers choose brands based on influencer suggestions.**
- The market for social media influencers in India was worth INR 1,275 crores in 2022, and it is projected to grow to INR 2,800 crores by 2025, at a CAGR of more than 20%.

The Regulation

- The guidelines released for celebrities and social media influencers **mandate disclosure of monetary or material benefits** concerning any product or brand they promote via their social media platforms. This can be done by mentioning phrases like *"This is a paid sponsorship"* below any sponsored post on social media platforms.
- These disclosures must be prominently displayed in the endorsement, and terms such as '**advertisement,**' '**sponsored,**' or '**paid promotion**' should be used for all sorts of endorsements while also ensuring that these disclosures are "**tough to miss.**" This step has been implemented after considering the increased use of social media for promotional activities beyond advertisements or advertorials in print or electronic media. **Further, it has been mandated that the disclosures should not be mixed with a group of hashtags or links.**
- "The power of virtual influencers, in addition to celebrities and social media influencers, has grown with the expanding reach of digital platforms and social media, such as Facebook, Twitter, and Instagram. As a result, there is now a greater chance that these people may deceive customers through deceptive marketing and unfair business activities on social media platforms," stated a release from the Union Consumer Affairs Ministry dated January 20, 2023.
- According to the recently released guidelines, benefits and incentives, monetary or other non-monetary compensation, trips or hotel stays, media barter, coverage and awards, free products with or without conditions, discounts, gifts, and any family, personal, or employment relationship fall under the category of material benefits.
- It is acceptable to use phrases like "advertisement," "sponsored," or "paid promotion" when making endorsements. However, they should not endorse any product or service and service in which they have not done due diligence or that they have not personally used or experienced," the Centre said.

- In the case of endorsement via social media image posts, disclosures should be superimposed over the image with enough clarity for viewers to notice. In addition, disclosures should be placed in the video itself, not just in the video description, and should be made in both audio and video format.
- **Failure to comply with the guidelines shall attract a penalty of up to INR 10 Lacs, which could go up to INR 50 Lacs for repeat defaulters.** Additionally, the authorities may forbid an endorser of a deceptive advertisement from endorsing anything for up to one year. The prohibition may even be increased to three years for a second offense.

Impact on Influencers

- Advertising Standards Council of India (ASCI), the discretionary and self-regulatory organization that protects consumer interests through self-regulated measures and rules for advertising, has welcomed the regulations laid down by the Centre.
- The CEO & Secretary General of ASCI - Ms. Manisha Kapoor, stated, "ASCI welcomes the endorser guidelines issued by the Ministry of Consumer Affairs. We are happy to note that they are aligned with ASCI's influencer guidelines, 2021. Influencer violations comprise almost 30% of ads taken up by ASCI. Hence this legal backing for disclosure requirements is a welcome step. The Ministry had been in touch with ASCI to review the various global guidelines on influencers."
- As per the ASCI Influencer report from June to December 2021, **80% of influencers whose posts were flagged voluntarily took their posts down. However, 86% of the balance cases went to the ASCI's Consumer Complaints Council, followed by compliance.**
- A powerful impact of the regulation will be compliance by not only the balance 14% but also a more substantial weight and footing allotted to ASCI's established norms for influencers.

- Several veteran actors and actresses are part of ASCI's noncompliant brands and influencers lists. This law shall allow executing a more stringent check on these influencers under the revised statutory provisions.

Impact for Brands

- Most young brands and companies' endorsements by influencers are inclusive of the explicit mention of "**paid partnership**" or "**ad.**"
- Instagram already has an active feature for paid partnerships which are displayed on posts with sponsored brand collaborations, and the company runs its policies for monitoring social media influencers and their content to avoid consumer confusion.
- The recommended paid partnership disclosure and regulation will establish a more transparent and trustful relationship between the influencers, consumers, and brands.
- The most significant impact of this regulation would be for brands that enter into barter collaborations in the form of hotel/villa stays, sponsored tours, etc., where there is no monetary exchange.
- Brands that associate with veteran actors and actresses and misuse their stature to ignore ASCI's set rules must now abide by the statutory regulations implementing the practices.

Impact for Consumers

- Consumers are the direct target of all paid partnerships and brand endorsements. This regulation would add transparency to the brands the influencers use and portray on their social media handles, thus providing a more precise insight to consumers.
- This regulation will also distinguish between products that the influencers genuinely use and recommend and those being pushed because of paid partnerships.

- Vikas Mangla, a founder of DigitalROI, said, "Consumers may become increasingly aware of paid endorsements, which may result in heightened doubt about the integrity of the recommendation. Moreover, advertisers may need to be more open about their relationships with influencers and other endorsers because increasing scrutiny of these interactions may result from their lack of transparency."

The new regulation is expected to enhance transparency and reduce the misleading effect of advertising and brand marketing efforts channeled through social media influencers.

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