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NYAYAVIMARSHA

Unfair Trade Practices in the Digital Economy: Regulating Influencer Marketing and Misleading Ads.

Abstract

The digital economy has revolutionized commerce, enabling new forms of advertising, such as influencer marketing. While effective, this trend has raised concerns about unfair trade practices, particularly regarding misleading advertisements. This paper examines the legal, ethical, and regulatory challenges posed by influencer marketing in the digital economy. It discusses the role of regulatory frameworks, self-regulation by platforms, and consumer awareness in addressing these issues.

Keyword: Sponsorship disclosure, Influencer marketing, Hashtag, Digital economy

Introduction

The rise of social media platforms has transformed traditional advertising into a dynamic ecosystem of influencer marketing. Influencers, with their large online followings, promote products and services in exchange for monetary compensation or other incentives. While such marketing strategies are often effective, they also open the door to unfair trade practices, particularly when promotional content is not adequately disclosed or when products are misrepresented.¹

This paper explores the extent of unfair trade practices in influencer marketing, focusing on the following questions:

1. What constitutes misleading advertising in the digital economy?
2. How effective are current regulations in addressing these practices?
3. What additional measures can mitigate the issue?

¹ *The Thrilling Life of a Commerce Influencer!* Talk Commerce, <https://talk-commerce.com/blog/the-thrilling-life-of-a-commerce-influencer/> (last visited January 10, 2025).

Issues in Influencer Marketing and Misleading Ads

Non-Disclosure of Sponsorships: One of the most prevalent and concerning issues in influencer marketing is the failure to disclose sponsorships adequately. As the digital economy has grown, influencers have become key players in advertising, leveraging their personal connection with followers to promote products and services. However, when these promotions are not transparently labeled as paid content, they can mislead consumers into believing the endorsements are genuine, unbiased opinions.²

How Non-Disclosure Happens

Non-disclosure of sponsorships typically occurs when influencers fail to use clear, prominent labels such as “#ad” or “#sponsored” in their content. Instead, they may subtly integrate promotional content into posts, stories, or videos, making it difficult for followers to discern whether the recommendation is paid or organic. For example, a travel influencer might share pictures of a luxury resort with glowing reviews but fail to disclose that the stay was complimentary in exchange for promotion. Similarly, a fashion influencer might showcase clothing brands without revealing that they are part of a paid partnership.³

Some influencers intentionally obscure sponsorship details to maintain the authenticity of their personal brand, fearing that explicit disclosures might reduce engagement or trust. In other cases, the lack of disclosure may result from ignorance of advertising guidelines or lax enforcement by brands and platforms.

Why Non-Disclosure Is Problematic

The lack of transparency in influencer marketing undermines consumer trust and raises ethical concerns. When audiences believe they are receiving honest recommendations rather than paid advertisements, they are more likely to make purchasing decisions based on this misrepresentation. For instance, if a beauty influencer promotes a skincare product while

² Ruvimbo Musiyiwa and Jenna Jacobson, "Sponsorship Disclosure in Social Media Influencer Marketing: The Algorithmic and Non-Algorithmic Barriers", available at: <https://doi.org/10.1177/20563051231196870> (last visited January 10, 2025).

³ *ibid*

omitting the fact that they were paid to do so, followers might attribute the product's benefits to the influencer's genuine experience rather than to financial incentives.⁴

Such practices can have several negative outcomes:

1. **Consumer Deception:** Followers may feel misled if they later discover the promotion was paid, leading to buyer regret or dissatisfaction.
2. **Erosion of Trust:** Non-disclosure damages the credibility of influencers and brands alike, as consumers may begin to question the authenticity of all endorsements.
3. **Harmful Purchases:** Misleading endorsements can prompt consumers to buy products that are ineffective, overpriced, or even harmful, particularly in industries like health, beauty, and wellness.

Regulatory and Platform Responses

To address these issues, regulatory authorities such as the Federal Trade Commission (FTC) in the United States and the Advertising Standards Authority (ASA) in the United Kingdom have implemented guidelines for influencer marketing. These regulations require influencers to disclose sponsorships in clear, unambiguous terms.⁵ For example:

- Disclosures must be conspicuous and placed at the beginning of posts or videos.
- Vague labels like “#partner” or hidden disclaimers in long captions are not acceptable.

Social media platforms have also introduced tools to encourage transparency, such as Instagram’s “Paid Partnership” tag, which allows influencers to disclose collaborations visibly.⁶

Challenges in Enforcement

Despite these measures, enforcement remains inconsistent. The global and decentralized nature of social media complicates regulatory oversight. Many influencers operate across

⁴ *ibid*

⁵ Lucky Rana and Deepika Srivastav, *Influencer Marketing: There is More Than Meets the Eye*, available at: <https://ssrana.in/articles/influencer-marketing-india/> (last visited January 10, 2025).

⁶ *ibid*

jurisdictions, making it difficult for regulators to monitor and penalize non-compliance. Moreover, the sheer volume of content posted daily poses a significant challenge to enforcement efforts.

False Claims: False claims in influencer marketing are a major concern in the digital economy. As influencers become powerful vehicles for brand endorsements, they often promote products or services with exaggerated benefits or incomplete disclosures, leading to consumer deception. This issue raises significant ethical, legal, and economic questions, especially in industries like beauty, wellness, and health, where misleading information can have far-reaching consequences.⁷

How False Claims Happen

False claims in influencer marketing often arise due to a combination of influencer strategies, brand pressure, and audience expectations. Influencers, eager to please their sponsors and maintain high engagement with their followers, may overstate the benefits of a product or service to make their promotion more appealing.⁸ This can include:

1. **Exaggerated Results:** Influencers may promise guaranteed outcomes, such as instant weight loss or flawless skin, without evidence to support these claims. For example, promoting a dietary supplement by showcasing “before and after” photos that are heavily edited or staged can create unrealistic expectations.⁹
2. **Selective Omissions:** Critical information, such as potential side effects or risks, is often excluded. A fitness influencer promoting a pre-workout supplement, for instance, may fail to mention that the product contains high levels of stimulants, which could be harmful to certain individuals.¹⁰
3. **Misleading Visuals:** Many influencers use filters, professional editing, or even deceptive tactics like “unboxing” fake products to create a false impression. For

⁷ The impact of exaggerated and deceptive influencer advertising and influencer attractiveness on consumer purchase intentions. *Journal of Economics Business and Political Researches*, 9(25), 837-853, available at: <https://doi.org/10.25204/iktisad.1480293> (last visited January 10, 2025).

⁸ *ibid*

⁹ *ibid*

¹⁰ *ibid*

4. example, beauty influencers might promote makeup or skincare products while using edited images to enhance the appearance of results.

Brands may also contribute to the issue by providing influencers with scripted content or specific claims they are required to repeat. In some cases, influencers may not have the expertise to evaluate the claims they are making, especially in complex areas like health or wellness.

Why False Claims Are Problematic

False claims in influencer marketing have a profound impact on consumers, businesses, and society. These issues manifest in several ways:

1. **Consumer Harm:** Misleading claims can result in financial losses when consumers purchase ineffective or overpriced products. In more severe cases, false claims about health-related products can cause physical harm. For example, promoting unregulated supplements or detox teas without adequate disclaimers can lead to adverse health effects.¹¹
2. **Erosion of Trust:** When consumers realize they have been misled, it undermines their trust not only in the influencer but also in the broader digital economy. Repeated exposure to false claims can lead to skepticism about all influencer marketing efforts, damaging the reputation of the industry.¹²
3. **Legal Risks:** Influencers and brands that engage in deceptive practices risk regulatory action. For instance, the Federal Trade Commission (FTC) in the U.S. has fined influencers and brands for making unsubstantiated claims about product efficacy.¹³

Real-Life Examples

In 2017, several influencers faced backlash for promoting detox teas that promised rapid weight loss without proper evidence. These products were later found to contain laxatives, which posed health risks. Regulatory bodies intervened, leading to stricter guidelines for

¹¹ Mohammed T. Nusei, *Impact of misleading/false advertisement to consumer behaviour*, 16(4) Int'l J. of Econ. & Bus. Research 453, 465 (2018), available at DOI:10.1504/IJEBR.2018.095343 (last visited Jan. 10, 2025).

¹² *ibid*

¹³ *ibid*

influencer marketing. Another example is the promotion of unproven beauty products, where influencers claimed miraculous results but failed to disclose that the effects shown in videos were enhanced by filters or lighting.¹⁴

Addressing the Issue

1. **Stronger Regulations:** Governments need to enforce stricter penalties for influencers and brands that promote false claims. Regulatory bodies like the FTC have taken steps, but global consistency is essential to manage cross-border influencers.¹⁵
2. **Transparency and Disclosures:** Mandatory disclosures about product testing, results, and risks should accompany influencer endorsements. Influencers should be encouraged to provide honest, balanced reviews rather than uncritical promotions.
3. **Consumer Education:** Empowering consumers to recognize misleading marketing tactics is crucial. Digital literacy programs and public awareness campaigns can help consumers make informed choices.

Vulnerable Demographics: Influencer marketing has become a dominant force in digital advertising, leveraging the personal connections influencers have with their audiences. However, this strategy often disproportionately impacts vulnerable demographics, particularly teenagers and children. These groups are more impressionable, lack critical awareness about advertising tactics, and are therefore more susceptible to manipulative practices. This analysis explores how influencer marketing targets these demographics, why it is problematic, and the broader implications for consumers and society.¹⁶

How Vulnerable Demographics Are Targeted

1. **Appeal to Interests:**

¹⁴ Fu, P., Zhang, P., & Teng, H. (2023). *The Issues and Optimization Strategies in the Modernization of Vocational Education in the Era of Chat GPT*, 10(5), 251, available at <https://doi.org/10.22158/wjer.v10n5p251> (last visited January 10, 2025).

¹⁵ Mark Jackson, "FTC Regulations and Influencer Marketing," Alessandro Bogliari, Co-Founder & CEO of The Influencer Marketing Factory, shares the latest FTC regulation updates every marketer should have on their radar, available at: <https://www.meltwater.com/en/blog/ftc-regulations-influencer-marketing> (last visited January 10, 2025).

¹⁶ **Influencer marketing tips Archives - Optimind Technology Solutions**, Available at: <https://www.myoptimind.com/tag/influencer-marketing-tips/> (last visited January 10, 2025).

Influencers create content that resonates with the preferences of younger audiences, such as gaming, fashion, beauty, or fast food. Brands intentionally select influencers whose follower base consists predominantly of teenagers and children to maximize the reach of their campaigns. For instance, a gaming influencer might promote exclusive in-game purchases or micro transactions, which appeal directly to young players. Similarly, beauty influencers might market products like cosmetics or skincare to teenage girls by focusing on trends and aesthetics popular in that age group.¹⁷

2. **Blurring the Line Between Content and Ads:**

Children and teens often fail to distinguish between organic content and paid promotions. Influencers seamlessly integrate advertisements into their daily lives, presenting them as genuine endorsements rather than promotional activities. For example, a teenage influencer might showcase a new clothing line in a casual "day-in-my-life" video, making it appear as a personal recommendation rather than a paid advertisement.

3. **Exploitation of Emotional Connections:**

Younger audiences often view influencers as relatable role models or even friends. This parasocial relationship increases their trust in the influencer's recommendations. When influencers promote products, young viewers are more likely to act on these suggestions without questioning the motives behind them.

Why Targeting Vulnerable Demographics Is Problematic

1. **Lack of Critical Thinking:**

Teenagers and children have underdeveloped cognitive and analytical skills, making them more susceptible to persuasive advertising. They may not understand that

¹⁷ **Dr. Hemant Bareth**, "The Impact of Social Media Influencers on Young Minds: Navigating the Positive and Negative Effects", *Times of India*, February 23, 2023, <https://timesofindia.indiatimes.com>, (last visited January 10, 2025).

influencers are being paid to promote products or services, leading them to take recommendations at face value.¹⁸

2. Financial Consequences:

Many young individuals lack the financial literacy to make informed spending decisions. Gaming influencers, for instance, often promote in-app purchases or subscriptions without clarifying the long-term costs. In some cases, young consumers might spend large amounts of money without realizing the implications, sometimes even using their parents' credit cards without consent.

3. Unrealistic Standards and Psychological Impact:

Fashion and beauty influencers frequently promote products alongside heavily edited or filtered content, creating unrealistic beauty standards. Young girls and boys who aspire to look like their favorite influencers may develop insecurities or low self-esteem when they fail to achieve these unattainable ideals. For example, a teenage girl may feel pressured to buy expensive skincare products promoted by an influencer with flawless skin, not realizing that editing and professional makeup contribute to the appearance.¹⁹

4. Health Risks:

In some cases, influencers promote products that could be harmful to younger audiences, such as unregulated dietary supplements, detox teas, or energy drinks. Teens who lack the knowledge to evaluate these products' safety may experience negative health effects as a result.²⁰

¹⁸ Jessica Packer, Helen Croker, Anne-Lise Goddings, Emma J Boyland, *Advertising and Young People's Critical Reasoning Abilities: Systematic Review and Meta-analysis*, *Pediatrics*, Vol. 150, No. 1, November 2022, DOI: 10.1542/peds.2022-057780 (last visited Jan. 10, 2025).

¹⁹ *ibid*

²⁰ *ibid*

Examples of Exploitation

- **Gaming Microtransactions:** Popular gaming influencers often promote in-game purchases that appear trivial but can lead to significant expenses. Younger players might be tempted to spend money on exclusive skins, characters, or weapons, contributing to a cycle of impulsive spending.
- **Beauty Standards:** Influencers in the beauty and fashion industry frequently target teenage girls, promoting products that promise to enhance their appearance. For example, edited images and videos showcasing flawless makeup looks create pressure to purchase expensive or unnecessary cosmetics.
- **Fast Food Marketing:** Influencers working with fast food brands often glamorize unhealthy eating habits. Young followers might be drawn to such promotions without understanding the potential long-term health implications.

Broader Impacts of Unfair Trade Practices in Influencer Marketing

Influencer marketing has become a powerful tool in the digital economy, transforming the way brands connect with consumers. However, the lack of regulation and ethical accountability has resulted in unfair trade practices such as misleading advertisements and non-disclosure of sponsorships. These practices have significant broader impacts on consumers, businesses, and society, particularly in the realms of economics, legal frameworks, and ethical considerations.²¹

1. Economic Consequences

Misleading influencer marketing practices have direct and far-reaching economic repercussions for consumers and businesses alike.

- **Consumer Financial Losses:**

When influencers promote products or services with exaggerated claims, consumers often spend money on items that fail to deliver on their promises. For example, a

²¹ *Influencer marketing tips Archives - Optimind Technology Solutions*, available at: <https://www.myoptimind.com/tag/influencer-marketing-tips/> (last visited January 10, 2025).

beauty influencer might promote a skincare product claiming it will "cure acne overnight," leading to consumer disappointment and wasted resources. Such false advertising creates a cycle of financial harm, especially for economically vulnerable individuals who may overextend their budgets to purchase these products.²²

- **Loss of Trust in E-Commerce:**

The digital economy relies heavily on consumer trust. Repeated exposure to misleading ads erodes confidence in online shopping and influencer recommendations. When consumers feel deceived, they may refrain from purchasing online, impacting businesses' revenue streams and limiting the growth of e-commerce.²³

- **Impact on Honest Brands:**

Ethical brands that rely on transparency may face an uneven playing field. Companies engaging in unfair practices can temporarily dominate the market by offering inflated claims or deceptive pricing, diverting consumers away from authentic, reliable businesses. This dynamic discourages fair competition and innovation.²⁴

2. Legal Challenges

The rise of influencer marketing has introduced new legal complexities, as regulators struggle to keep pace with the rapidly evolving digital landscape.

- **Non-Compliance with Disclosure Laws:**

Regulatory bodies such as the Federal Trade Commission (FTC) in the U.S. and the Advertising Standards Authority (ASA) in the U.K. have implemented guidelines requiring influencers to disclose paid promotions. However, many influencers and brands either ignore these rules or employ vague and inconspicuous disclosures (e.g.,

²² Luena Collini, Frithjof Michaelsen, Catalina Goanta, Cecile Jacob, *The Impact of Influencers on Advertising and Consumer Protection in the Single Market* (Feb. 2022)

²³ *ibid*

²⁴ *ibid*

hiding “#ad” in long captions). Non-compliance has resulted in fines for some influencers and brands, but enforcement remains inconsistent.²⁵

- **Cross-Border Jurisdictions:**

Influencers operate on global platforms like Instagram, YouTube, and TikTok, creating challenges for regulators. A brand in one country might collaborate with an influencer in another, complicating enforcement of advertising laws across jurisdictions. This gap allows unethical practices to flourish, as some influencers may exploit regulatory loopholes.²⁶

- **Lawsuits and Class Actions:**

Misleading ads have led to legal disputes, including class-action lawsuits by consumers. For instance, products like detox teas or unproven supplements promoted by influencers have been subject to legal scrutiny when they fail to deliver promised results or cause harm.

3. Ethical Concerns

Ethical responsibility lies at the core of influencer marketing, as influencers wield immense power over their followers' decisions.

- **Influencers as Role Models:**

Many influencers, particularly in niches like fitness, beauty, and wellness, are viewed as role models by their followers. Their endorsements carry significant weight, making it morally imperative for them to ensure that the products they promote are ‘

²⁵ "Developing a Sportsbook" - *Outletsdiscount*, available at: <https://outletsdiscount.com/developing-a-sportsbook/> (last visited January 10, 2025).

²⁶ *ibid*

safe, effective, and suitable for their audience. Failure to do so can lead to a betrayal of trust and long-term reputational damage.²⁷

- **Exploitation of Vulnerable Audiences:**

Younger audiences, who often idolize influencers, are particularly susceptible to manipulation. For example, children and teenagers may purchase expensive products or subscribe to services based on influencers' recommendations without understanding the commercial intent behind the promotion. This exploitation raises questions about the ethical boundaries of advertising to impressionable demographics.²⁸

- **Long-Term Impact on Consumer Behavior:**

The normalization of deceptive practices can shape consumer behavior negatively. If audiences become accustomed to exaggerated claims and misleading ads, they may develop a cynical outlook, rejecting even legitimate marketing efforts. This creates a paradox where ethical brands struggle to differentiate themselves in a landscape rife with distrust.²⁹

Regulatory Frameworks

The rapid growth of influencer marketing has resulted in various legal and ethical issues, particularly concerning unfair trade practices such as misleading advertisements, false claims, and non-disclosure of sponsorships. Regulatory bodies across the globe have introduced measures to address these issues, and several landmark cases highlight the legal consequences of violating such regulations. This detailed analysis delves into the legal frameworks governing influencer marketing, case laws that shaped these regulations, and their broader implications.³⁰

Legal Frameworks Governing Influencer Marketing

²⁷ Mariah Wellman, Ryan Stoldt, Melissa Tully, Brian Ekdale, *Ethics of Authenticity: Social Media Influencers and the Production of Sponsored Content*, 35(2) J. Media Ethics 68-82 (2020), DOI:10.1080/23736992.2020.1736078 (last visited Jan. 10, 2025).

²⁸ *ibid*

²⁹ *ibid*

³⁰ Is consumer really the King? | SSA Healthcare, available at: <https://ssahealthcare.com/is-consumer-really-the-king/> (last visited January 10, 2025).

1. **United States – Federal Trade Commission (FTC):** The FTC is one of the most active regulatory bodies overseeing influencer marketing. Its guidelines require influencers to clearly disclose when they are paid to promote a product or service. This includes using unambiguous terms like “#ad” or “#sponsored” in prominent positions within posts.³¹
2. **United Kingdom – Advertising Standards Authority (ASA):** The ASA enforces similar rules in the U.K., requiring influencers to ensure transparency in their promotions. The rules demand that ads be clearly identifiable as marketing communications, with disclaimers such as “Ad” or “Paid Partnership” displayed visibly.
3. **European Union – Unfair Commercial Practices Directive:** The EU directive prohibits misleading advertising practices, including failure to disclose sponsored content. Each member state enforces these regulations through local authorities.
4. **India – Consumer Protection Act (CPA), 2019:** In India, the CPA requires transparency in advertisements, and the Central Consumer Protection Authority (CCPA) has issued guidelines for influencers mandating clear disclosure of paid promotions.

Case Laws in Influencer Marketing

Federal Trade Commission v. Lord & Taylor (2016)

In this case, the FTC charged the retail company Lord & Taylor for misleading advertising involving influencers. The company paid influencers to promote a specific clothing line without requiring them to disclose that they were being compensated. The FTC ruled that this violated its guidelines, as consumers were misled into believing the endorsements were organic.³²

- **Impact:** This case highlighted the importance of mandatory disclosure of sponsorships and set a precedent for holding both brands and influencers accountable for deceptive practices.

³¹ "Microsoft Appeal Against UK CMA Set For July," Insider Gaming, available at: <https://insider-gaming.com/microsoft-appeal-against-uk-cma-set-for-july/> (last visited January 10, 2025).

³² Federal Trade Commission v. Lord & Taylor, available at: <https://www.manatt.com/documents/newsletters/2016> (last visited January 10, 2025).

ASA v. Molly-Mae Hague³³

The ASA ruled against U.K. influencer Molly-Mae Hague for failing to disclose that her Instagram posts promoting a giveaway were part of a paid marketing campaign. The ASA determined that her failure to label the content as an advertisement misled her followers.

- **Impact:** This case emphasized the necessity for influencers to label promotional posts clearly, even when the content appears informal or personal.

Kim Kardashian's SEC Fine for Promoting Cryptocurrency³⁴ (2022)

In a widely publicized case, the U.S. Securities and Exchange Commission (SEC) fined Kim Kardashian \$1.26 million for failing to disclose a \$250,000 payment she received to promote a cryptocurrency token on Instagram. The post lacked transparency, as it did not include clear language indicating that the promotion was paid.³⁵

- **Impact:** This case demonstrated the applicability of disclosure rules beyond traditional consumer products, extending to financial endorsements and investments.

FTC v. Teami LLC³⁶ (2020)

The FTC brought action against Teami LLC, a company that collaborated with influencers to promote detox teas using false health claims. Influencers, including celebrities, claimed the teas could help with weight loss, boost metabolism, and improve health without any scientific evidence to support these assertions. The FTC

³³ Love Island's Molly-Mae Hague broke rules with Instagram giveaway, BBC News, 3 March 2021, available at <https://www.bbc.com/news/technology-56254293> (last visited January 10, 2025).

³⁴ Kim Kardashian pays \$1.26m over crypto 'pump and dump', 3 October 2022, <https://www.bbc.com/news/technology-63116235> (last visited January 10, 2025).

³⁵ "3 rules for doing influencer marketing right | PR Week," available at: https://www.prweek.com/article/1801429/3-rules-doing-influencer-marketing-right?utm_source=website&utm_medium=social (last visited January 10, 2025).

³⁶ FTC Returns More Than \$930,000 To Consumers Who Bought Teami's Deceptively Advertised Teas, February 22, 2022, available at <https://www.ftc.gov/news-events/news/press-releases/2022/02/ftc-returns-more-930000-consumers-who-bought-teamis-deceptively-advertised-teas> (last visited January 10, 2025).

ordered the company to pay \$15 million in fines and implement proper advertising disclosures.

- **Impact:** This case highlighted the liability of brands for false claims made by influencers, reinforcing the need for due diligence in influencer collaborations.

ASA v. Mrs. Hinch³⁷ (2019)

The U.K. influencer Mrs. Hinch faced an ASA ruling for promoting cleaning products without declaring her posts as advertisements. The ASA ruled that her failure to disclose the commercial relationship violated its guidelines on transparency.

- **Impact:** This case reinforced the principle that any material connection between an influencer and a brand must be disclosed clearly, regardless of the format of the promotion.³⁸

Challenges in Enforcement: Enforcing regulations on influencer marketing faces significant challenges due to the global and decentralized nature of the digital landscape. First, influencers and brands operate across multiple countries, complicating the enforcement of consistent regulations due to varying legal standards in each jurisdiction. This creates a fragmented approach, where companies may exploit loopholes in regions with less stringent rules. Second, the sheer volume of content published daily on platforms like Instagram, TikTok, and YouTube overwhelms regulatory bodies. These agencies often lack the resources to monitor millions of posts, making it difficult to catch every violation. Additionally, many influencers exploit ambiguities in existing guidelines, using subtle tactics to obscure the commercial intent behind their content. For example, they might use vague disclosures or fail to place the "ad" label in a prominent position, making it harder for followers to recognize promotional content. As a result, these challenges highlight the

³⁷ "Creator brands - how Mrs Hinch and other influencers broke ASA rules," *HashtagAd*, Mar 17, 2023, <https://www.hashtagad.co.uk/post/creator-brands> (last visited January 10, 2025).

³⁸ What Are the Legal Considerations in Influencer Marketing? | Narrative Control, available at: <https://narrativecontrol.com/what-are-the-legal-considerations-influencer-marketing/> (last visited January 10, 2025).

need for clearer, more unified global regulations, improved enforcement capabilities, and transparency in influencer marketing practices.

Potential Solutions

As influencer marketing continues to thrive in the digital economy, the issue of unfair trade practices, such as misleading ads and non-disclosure of sponsorships, demands urgent attention. Various solutions have been proposed to combat these deceptive practices, focusing on transparency, platform accountability, technology-driven enforcement, and consumer education. Below, each potential solution is explored in greater detail.³⁹

1. Enhanced Transparency Requirements

One of the most straightforward ways to combat misleading influencer marketing is through clearer, more standardized disclosure practices. Currently, influencers are required to disclose when content is sponsored, but the existing guidelines—such as the use of hashtags like #ad or #sponsored—are often vague, inconsistently applied, or buried in long captions. To improve this, regulatory bodies should enforce stricter and more explicit disclosure rules.⁴⁰ For example, influencers could be mandated to place the disclosure in the first few lines of the post, where it is more likely to be seen, or use standardized disclosures that are universally recognized across platforms. Additionally, platforms could create built-in tools that make it easier for influencers to mark sponsored content. The goal is to make it immediately clear to consumers when content is paid advertising, ensuring that they understand the commercial intent behind the posts.

2. Platform Accountability

³⁹ *Top UK Beauty Influencers: The Ultimate Guide to Beauty Trends – Music Influencer Marketing*, available at: <https://music-influencer.com/top-uk-beauty-influencers-the-ultimate-guide-to-beauty-trends/> (last visited January 10, 2025).

⁴⁰ **Sponsorship Disclosure in Social Media Influencer Marketing: The Algorithmic and Non-Algorithmic Barriers** by Ruvimbo Musiyiwa and Jenna Jacobson, *SageJournal* (2025) DOI: 10.1177/20563051231196870 (last visited January 10, 2025).

Social media platforms like Instagram, YouTube, and TikTok have become the primary venues for influencer marketing, and as such, they must shoulder greater responsibility in monitoring and flagging misleading content. Platforms could implement stricter internal policies to identify and remove content that violates advertising guidelines. These policies could include flagging posts that lack adequate disclosures, misleading product claims, or endorsements for harmful products.⁴¹ Moreover, platforms could introduce automated systems or algorithms to detect sponsored content that doesn't adhere to regulations. By increasing their accountability, social media companies can help reduce the frequency of deceptive advertising and ensure that the content remains ethical and transparent. Platforms could also be held liable for repeated offenses, encouraging them to take a more proactive role in monitoring influencers' posts.

3. AI-Based Monitoring

Artificial Intelligence (AI) has the potential to revolutionize how influencer marketing is monitored and regulated. AI tools can be designed to automatically detect undisclosed advertisements or identify posts that contain misleading claims about products or services.⁴² For example, AI can scan for commonly used hashtags associated with paid promotions or detect patterns of content that match known deceptive marketing tactics. Furthermore, AI systems could be used to cross-check influencers' claims against databases of verified product information to assess their accuracy. This technology would help regulatory bodies and platforms identify violations in real time, allowing for faster responses and reducing the need for manual monitoring. The scalability of AI tools could also make it easier to monitor the sheer volume of content produced by influencers daily, ensuring that even smaller influencers are held to the same standards as larger ones.

4. Consumer Education

⁴¹ How Has The Internet Helped Influencers? – SocialStar, available at: <https://officialsocialstar.com/blogs/blog/how-has-the-internet-helped-influencers> (last visited January 10, 2025).

⁴² MENA AI Observatory, MENA Report, (2025),

An often-overlooked solution is the education of consumers. Many social media users, particularly younger demographics, may not fully understand the commercial nature of influencer content or the tactics used to manipulate purchasing decisions. Increasing public awareness through educational campaigns can empower consumers to recognize deceptive advertising and make more informed choices. Schools, universities, and online platforms could include media literacy programs that teach individuals how to spot sponsored content, understand the motivations behind influencer endorsements, and critically evaluate product claims.⁴³ Additionally, influencers themselves could take on the responsibility of educating their followers, creating content that explains how advertising works in their industry and why transparency is important. By fostering a culture of media literacy, consumers would be less likely to fall prey to misleading claims, thus reducing the overall impact of unfair trade practices.

Conclusion and Recommendations

Unfair trade practices in the digital economy, particularly in influencer marketing, pose significant challenges to regulators, platforms, and consumers. To mitigate these issues, a multi-stakeholder approach is essential. Governments should enhance regulatory clarity and enforcement, platforms should implement stricter self-regulation, and consumers should be empowered through education. By addressing these areas, we can create a more equitable digital economy.

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⁴³ Jordan Miller, "Dover couple waiting, hoping for a kidney donor," *Jordan Miller News* (July 30, 2024), available at: <https://www.jordanmiller.news/2024/07/30/dover-couple-waiting-hoping-for-a-kidney-donor/> (last visited January 10, 2025).