

5 Key Principles on Social Media Marketing Disclosures

Social media¹, platforms have become very important in many consumers' lives. Consumers spend substantial time on social media. In 2022, the average daily social media usage worldwide was 147 minutes per day.² At the same time, the commercial aspects of these platforms are growing; today they are e-commerce channels as any other marketplace. It is therefore important to ensure that all traders (whether they be a multinational business or an influencer), take their responsibilities seriously. They must ensure that all consumers can make well-founded transactional decisions, and easily distinguish between commercial and non-commercial content.

Consumers' social media usage and skepticism towards traditional advertising has led to the growth of influencer marketing.³ For the purpose of this document, an influencer is someone who creates content with a commercial intent, based on engagement with commercial traders for monetization purposes or non-monetary benefits such as free trips or products. An influencer could also promote its own products. The influencers build trust and authenticity-based relationships with their audience and therefore the marketing traits becomes powerful.⁴ Consumers often engage with influencers on a voluntary basis but are at the same time exposed to marketing that relies on the parasocial relationship⁵ between the consumer and the influencer.

If a product is endorsed through social media, it should be obvious for the consumer that the message has a material connection to a brand and that the influencer is getting some form of reimbursement for this endorsement (e.g., money, a discount, free products, percentage from affiliate links, trips, etc.). Studies affirm that engagement rates with a social media post substantially decrease with advertising disclosures. That is, disclosure has an effect and is a clear signal of the commercial nature of sponsored influencer posts.⁶

Children are frequent users of social media platforms and are considered as vulnerable consumers that require a stronger consumer protection. Studies show that children have significant difficulties in recognising digital advertisements, for example on social media platforms, where marketing is to a high degree blended

¹ Social media includes internet-based applications such as social networks, blogs, multimedia content-sharing sites and wikis.

² Statista, 2022. *Daily time spent on social networking by internet users worldwide from 2012 to 2022*. <https://www.statista.com/statistics/433871/daily-social-media-usage-worldwide/> Accessed date: 19 december, 2022.

³ Karagür Z, Becker J-M, et al. How, why, and when disclosure type matters for influencer marketing. *Elsevier*, Volume 39, Issue 2, June 2022, pages 313-335

⁴ European Parliament, (2022) The impact of influencers on advertising and consumer protection in the Single Market

⁵ A parasocial relationship refers to a relationship where a person imagines having a relationship with another person whom they do not know, such as a celebrity or a fictional character ([PARASOCIAL | English meaning - Cambridge Dictionary](#))

⁶ Karagür Z, Becker J-M, et al. How, why, and when disclosure type matters for influencer marketing. *Elsevier*, Volume 39, Issue 2, June 2022, pages 313-335.

with non-commercial content, in other words deeply embedded in the context of digital media.

This document identifies 5 key principles, which are by no means exhaustive, that can help traders, influencers (and their agents), and platforms ensure fair commercial practices when directing social media marketing to consumers. The principles are based on relevant requirements in consumer protection laws.

In the opinion of the CPC Network, there are several reasons why disclosures in social media marketing are particularly important;

- A. Influencers often depend on authenticity and trustworthiness to build engagement, but this also makes them attractive to businesses for advertising and collaboration purposes. This can result in commercial content being weaved into the influencers daily activities which may obscure its commercial intent.
- B. Social media marketing can be an effective way for traders to reach a large audience at a low cost. Also, influencers have a great impact on consumers through their social status and perceived trustworthiness.
- C. The digital technology, including social media, is an important part of the consumers purchasing journey, both in looking for information and in enabling swift purchases.

Using a platform's disclosure tool does not take away the legal responsibility of the trader or influencer to disclose commercial content. Furthermore, influencers are also responsible to clearly disclose commercial content where they are endorsing their own products or business. They need to make an overall assessment if a social media marketing disclosure is sufficient and when doing so should consider the following non-exhaustive key principles.

1. The wording used should make it obvious to the average consumer that the content is commercial. Hence, it is recommended to use the word "advertisement" and avoid abbreviations and ambiguous words such as partnership, sponsored, collaboration, ambassador and gifting. Furthermore, the wording should be in the language used in the post/video.
2. The text should be prominent and clearly distinguished from other content and features, and several factors need to be considered such as size, font, colour, frames, level of opacity and whether the text is embedded in photo, video or text. It is also necessary to individually label each commercial communication (post or video) as it reaches consumers, even if the influencer is engaged in a broader endorsement arrangement with a trader/brand, which is disclosed in their bio or website.
3. To ensure that the disclosure is prominent the placement needs to be carefully considered i.e., taking into account the content and all other features such as the format (e.g., video including stories/reels), filter icons, links and music information displayed to the consumer. The disclosure cannot be considered adequate in case the information concerning the commercial communication is not displayed prominently (e.g., hashtags at the end of a lengthy disclaimer; merely tagging a trader)

or requires the consumer to take additional steps (e.g., click on “read more”).⁷

4. In addition to legal requirements and practice, and guidance issued by the European Commission and/or national authorities, the trader should consider available research and reports that can be useful when designing social media marketing disclosure, in particular behavioural studies on how consumers perceive specific disclosures.
5. Specific vulnerabilities of children should be considered when disclosing commercial content that is likely to be seen by children. Therefore, the above-mentioned principles need to be assessed from a child’s perspective including the age of the child.

⁷ Guidance on the interpretation and application of Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market, page 123.