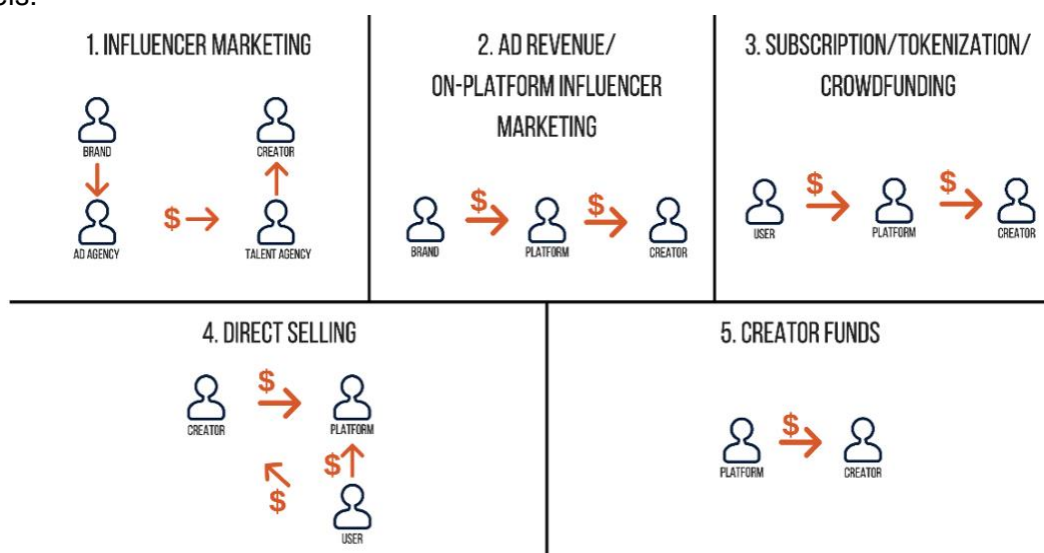


LEGAL BRIEF #5: CONTENT MONETISATION BUSINESS MODELS AND BEST PRACTICES

Influencer marketing is only one of the business models that grew in the booming content monetisation economy - where individuals are able to earn money through creating content for social media. It is important to consider what other business models are relevant for the content creation economy, as they will also entail the application of consumer protection, to the extent that they are pursued by traders. It is also important to keep in mind some best practices in complying with European consumer law in this respect. As advertising disclosures have received a lot of attention in case law, regulation and media, they will be addressed separately.

Based on [academic research](#), the creator economy revolves around five main business models:



Based on a 2023 study for the European Parliament (Michaelsen et al. 2023)

- 1. Influencer marketing.** Influencer marketing generally consists of advertising goods or services for money or advertising in exchange for goods, services, or other benefits. If you do influencer marketing, you probably use one or more of the following deals:
 - a) *Endorsements:* you receive money to create ads on any kind of social media platform or website - whether the content is temporary (like Instagram Stories) or permanent.
 - b) *Barters:* you receive things (e.g. free hotel rooms, clothing) in exchange for advertising or promoting a brand - this can mean 'gifted' products and services, or public relations activities (when you are invited to a restaurant or provided with a free video game to play on YouTube).
 - c) *Affiliate marketing:* you receive a percentage of every sale you drive, often based on advertising what is being sold. Often this is tracked through an affiliate link or discount code for your followers.

Best practice The [Unfair Commercial Practices Directive](#) applies to all these situations. Make sure to check out the separate advertising disclosures information, where we discuss

more details about influencer marketing as a business model, and where we try to guide you with concrete advice about how to do responsible disclosures.

2. **Ad revenue.** Ad revenue is the same as creator funds from the perspective that the revenue comes from the platform. This is your contract with the social media platform that provides you with revenue from their platform advertising (e.g. YouTube's AdSense). Since this is not advertising that you yourself engage in, there are no specific obligations for you relating to consumer protection when it comes to this business model. More recently, some platforms started to experiment with **On-platform influencer marketing**: some platforms like Twitch or TikTok now offer influencer marketplaces to bring together brands and creators. This leads to similar advertising disclosure or labeling issues that are covered by the UCPD - meaning you should follow the best practice advice we gave you earlier in the video.

Best practice When you accept Twitch Bounties or TikTok Branded Missions, or once you start being paid for advertising services, whether with actual money or in algorithmic boosts, you need to disclose the deal to your audience.

3. **Subscriptions/Tokens.** When you set up subscriptions on platforms like YouTube, Twitter or Patreon, or get micro-payments during streaming on Twitch or TikTok, you engage in contracts for digital content with the consumers in your audience. The Digital Content Directive gives consumers more rights regarding the delivery or the quality of the content. For instance, if you promise to have two calls with your Patrons each month if they pay you €100 and you fail to make that happen, this means there is a problem with the delivery of digital content. Consumers might have a right to be reimbursed for the services they did not receive. If you promise to make two phone calls you cannot substitute this with something else - for example a signed photo. Similarly, there may also be problems with the quality of the content delivered - if you promise to call for five minutes, then this must be fulfilled, the calls cannot last thirty seconds.

Best practice If you offer digital content through this business model, make sure you are aware of quality and delivery standards required by the law. To do so, you can check our [Digital Content Directive](#) information in Legal Brief #2.

4. **Direct selling.** This is a wide-spread business model that entails you selling goods and/or services to your consumer audience. As a seller who acts as a trader, you will have to become familiar with a lot of additional rules, including the [Unfair Contract Terms Directive](#) or the [Digital Content Directive](#), to name a few. Selling goods to consumers as a trader means you need to facilitate a lot of information to consumers which they need in order to make a well-informed decision (e.g. the existence of a right to return goods, according to the [Consumer Rights Directive](#)). The same goes for the rights consumers have when their products don't arrive or are defective.

Best practice If you engage in direct selling, there are literal lists of information categories that you need to comply with. Make sure to check our other materials (e.g. Legal Brief #8) to help you better understand what traders are supposed to do in these situations.

5. **Creator funds.** If you happen to receive any revenue from platforms that have developed partner programs or creator fund programmes, such as TikTok or Pinterest, this is a matter between you and the platform, and there are no specific consumer protection issues that we cover here.

In addition to all the rules we mentioned here relating to different business models, it is important to remember that there is also an obligation to make sure that consumers are not harmed by the goods that you sell or advertise. The new [General Product Safety Regulation](#) rules require all producers to only place safe products on the market. Some types of products might also be covered by more specific rules, like cosmetics or toys. For instance, the [Cosmetics Regulation](#) establishes rules to be complied with by any cosmetic products made available on the internal market.

Best practice To make sure that you are not advertising or selling unsafe products, you can always check [Safety Gate](#), the EU's centralised tool that national authorities can use to quickly alert the European Commission – and each other – about non-food products that pose a risk to the safety and well-being of European consumers.