



NEWSLETTER

From: MEDIA, ENTERTAINMENT AND ADVERTISING

Subject: INFLUENCER GUIDELINES PUBLISHED BY THE BELGIAN
ADVERTISING COUNCIL

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Purpose of the Guidelines is to help online influencers, advertisers, agencies, media and platforms to protect the consumer, who has the right to always know clearly if a social media post is a commercial communication.

The Guidelines also offer legal security and certainty to advertisers and influencers on what rules apply when making influencer marketing and in turn, through this clarity, they can assure that the consumer is being protected correctly.

Central themes are clarity (the commercial communication must be clearly recognizable), honesty and transparency.

The Guidelines have been drawn up and are supported by all relevant parties in the industry. Purpose is to provide practical guidelines on how, when and what to disclose when engaging in influencer marketing on any social media channel.

The Guidelines are an instrument of self-regulation and the Self-Regulatory Authority JEP (Jury for Ethical Practices) is the supervising authority for compliance with the Guidelines.

The Guidelines only apply when two conditions are jointly met: the online influencer receives a fee in kind or in cash to communicate about a brand, product, service or organization and provided that the advertiser has significant control over the communication.

Freely using a product for a certain period of time or receiving the product can be seen as a payment in kind. Control by advertiser has to be significant, directives are agreed with the online influencer. The Guidelines give a couple of examples to clarify the distinction. A free gift of product without control by the brand over the content will not suffice to make the communication commercial. An authentic and natural opinion or review posted by the influencer without interference by the brand (either by writing the message or by approving it) is not considered to be a commercial communication but, rather, a personal opinion or judgment. An employee of a company who shares a communication on social media through loyalty to the company is not

seen as an influencer who is getting paid for spreading a commercial communication because the wage is not related to the communication in question.

The rules require that, when getting knowledge of the message, it has to be immediately clear for the receiver that the communication is commercial. This can be reached in the following ways:

- ❖ by an explicit and textual statement that the message concerns a commercial communication;
- ❖ the context in which the online message is published makes it clear that it is a commercial communication;
- ❖ brand or logo notification makes clear that it is commercial communication.

Also, each commercial communication has to be honest. The message cannot contain erroneous information or mislead the target audience with false claims. The communication cannot incite kids directly to convince their parents or other adults to buy products for them.

Recommendations for a proper application of the rules:

- ❖ the relation with the brand is being made clear orally or visually by mentioning one of the following words: advertising, publicity, sponsoring, promotion, sponsored by, in collaboration with or also other equivalent mentions or hashtags: #spon, #adv, #prom., #sample, #recl. or other kinds of similar hashtags. This guarantees a transparent communication.
- ❖ Social media do not have language boundaries. Adapt the wordings in function of the language of the message or your target audience.
- ❖ Ensure that these words are mentioned in such a manner and place that the receiver understands the correct nature of the message immediately;
- ❖ Do not hide these words, ensure that the average consumer sees them when he sees the message in a normal way.

Wish to contact our legal experts?

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