

ISSN: 3048-8702(O)

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LEX LUMEN RESEARCH JOURNAL

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VOLUME 2 - ISSUE 3

2026

EDITOR-IN-CHIEF: DR. RAZIT SHARMA,

PUBLISHER: MRS. RACHANA

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It has been accepted for inclusion in the Journal after Due-review process.

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## **THE RISE OF INFLUENCER MARKETING: LEGAL CHALLENGES UNDER INDIAN CONSUMER PROTECTION LAW**

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By- **Chahat Arora**<sup>1</sup>

### **ABSTRACT**

*The introduction of social media influencers has not only overturned the Indian advertising industry but also created quite a few difficulties concerning consumer protection that are beyond the capability of the existing laws and regulations to handle satisfactorily. A study of the situation assumes the influencers' role as the main intermediary between the brands and the consumers on one side, while also revealing the risks of market deception and fraud as the factors involved. The Indian influencer marketing sector has attracted investments of several thousand crore rupees and has also been growing steadily which has placed the regulators in a dilemma as to how much control should be exercised. Currently, the study looks at the consumer laws in India, their real-world application, significant cases, and also provides a comparison between the Indian and the strategies of forty other nations. The findings from the survey indicate that obstacles in the implementation of consumer protection law are everywhere. The research team suggests a law reform that would not only secure consumer rights but also permit unlimited flow of ideas in the industry.*

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<sup>1</sup> B.A.LL.B. Honours, Atal Bihari Vajpayee School Of Legal Studies, Chhatrapati Shahu Ji Maharaj University Kanpur, India

**KEYWORDS:** Influencer marketing, consumer protection law, misleading advertisements, endorser liability, disclosure obligations, due diligence, platform accountability, virtual influencers, deepfakes.

## INTRODUCTION:

### *The digital transformation of advertising:*

The commercial communication field has experienced major changes during the last ten years. The development of social media platforms for personal relationship building by users enabled the creation of a billion-dollar industry which employs digital characters controlled by professional operators to display products that customers want to see. Brands use influencer marketing because it allows them to reach social media influencers who have many followers to promote their products.<sup>2</sup> The situation demands immediate action because its present state requires instant treatment. Indian influencers use multiple platforms which include Instagram, YouTube, TikTok and new Chinese applications to develop their content across different platforms. The advertisers face challenges because influencers establish trust with their viewers which enhances their power to influence which lasts until they succeed after they achieve success. The industry creates economic value because followers believe influencers will share their genuine thoughts instead of presenting prearranged marketing content<sup>3</sup>.

### *Consumer protection challenges:*

However, in many cases, this transparency is mistaken as deceptive. When spokesmen conceal their monetary relationships, exaggerate the benefits, make unsupported health claims, or hint at using products they have not, consumers are led astray, and the marketplace doesn't seem quite as cut and dry. Indeed, social media is a very casual, less formal environment where advertisements blend with users' personal thoughts and sincere recommendations, and it is extremely unclear

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<sup>2</sup> Influencer Marketing Association of India, Industry Overview and Definition (2024)

<sup>3</sup> EY, State of Influencer Marketing in India (2024)

which comes from users and which is paid promotion. The regulatory attitude both put the old rules to use in the new place and treated this as a progressive reform. It adds the current Indian consumer protection law is an earlier relic of yesteryear and at a time when technology was different, then the same thing in terms of digital advertising rights will not necessarily reflect. Among other things, the unknown connections between influencers and brands, the transient nature of social media content, the difficulties in accumulating evidence in the digital age particularly, and the global nature of online platforms are among new challenges in enforcement that regulators didn't feel prepared to address.

***Legal framework development:***

Beginning with the Consumer Protection Act of 2019, Indian policymakers began explicitly addressing endorser liability. Subsequently, the Central Consumer Protection Authority issued detailed guidelines, and industry self-regulatory bodies promulgated standards for digital advertising. Yet despite these developments, significant gaps remain in both statutory provisions and enforcement capacity<sup>4</sup>.

**RESEARCH OBJECTIVES AND SCOPE:**

***Primary research questions:***

This investigation pursues several interconnected inquiries -

- First, what the laws, rules, guidelines, and codes in India are providing to influencers and what their statutory, regulatory and self-regulatory means cover? How do these instruments liaise with each other and exactly where are the gaps or unclear areas?
- Second, to what extent do these legal provisions really do, as intended, fulfill their purpose? What are the enforcement mechanisms in place, which monitoring resources are allocated and what are the challenges to regulatory

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<sup>4</sup> Central Consumer Protection Authority, Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022

action?

- Thirdly, what are the primary disadvantages? What uncontrolled practices underlie the practice, which players are responsible for this lack of accountability and which newer technologies have already surpassed the established legal categories?

***Comparative and forward-looking dimensions:***

The study will look at India's regulatory framework within the context of the global best practice mainly created by the Federal Trade Commission of the USA, UK regulatory bodies and some other major jurisdictions. The research ultimately assesses the capacity of current legal structures to address the challenges that the emergence of AI-generated influencers, deepfake technology, and data privacy, etc., pose<sup>5</sup>.

***Practical orientation:***

In conclusion, this study endeavors to discover actual reforms such as legislative reforms, regulation development, implementation innovations, and institutional improvements which would help safeguard the consumer while still keeping the commercial and creative potential of the sector.

**LITERATURE REVIEW AND CONTEXTUAL FRAMEWORK:**

***Conceptual Foundations:***

- To comprehend influencer advertising, one must be aware that it represents a unique type of commercial communication that is in stark contrast to traditional advertising. By contrast with traditional ads that announce products from identifiable corporate sources, influencer endorsements are those of personal recommendation by trustworthy sources. This structural disparity generates unique psychological and regulatory consequences<sup>6</sup>. Influencer marketing gains traction due to the understanding that it exploits

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<sup>5</sup> Consumer Protection Act, 2019, s.21(5)

<sup>6</sup> Advertising Standards Council of India, Case Studies, 2024

what scholars call parasocial relationships (the process through which the audiences feel close to the content creators they have been watching for a long time). By viewing the influencers as friends or advisors, the audience ends up emotionally attaching to their recommendations. But when that trust is exploited for commercial gain without revealing the true nature of its usage, the deception is deeper than in the case of regular advertisements.

*Theoretical frameworks for influencer persuasion:*

- The study reveals that influencer marketing serves two main purposes: delivering products and communicating with audiences. To understand how this works, we can look at it through the lens of persuasion theory, particularly the idea of parasocial relationships. These are the one-sided emotional connections that audiences develop with media figures. To grasp the impact of influencer marketing, we first need to appreciate this relationship. Influencers hold a unique power to influence others because they craft content based on their own life experiences. This authenticity helps them forge genuine connections with their viewers. As these relationships strengthen, followers often feel a bond with the influencers, which fosters trust. Research indicates that when fans feel they have a - relationship with an influencer, they are more likely to view that person as a reliable source of guidance. Because followers perceive influencers as credible, their purchasing decisions tend to align with this trust. However, in today's landscape, it can be challenging to tell the difference between entertainment, friendship, and commercial influence. While blending these elements can enhance the effectiveness of influencer marketing, it also raises concerns about hidden advertising that may not always be disclosed.
- Alongside parasocial dynamics, classic source-credibility theory also illuminates influencer marketing. This framework posits that the persuasiveness of a message depends heavily on the perceived expertise,

trustworthiness and attractiveness of the communicator. Influencers often cultivate a niche reputation such as fitness, beauty, finance or gaming, thereby signalling specialised knowledge to their followers. When such perceived expertise is combined with an impression of honesty and relatability, the resulting source credibility significantly increases consumers' willingness to accept product claims with minimal scrutiny.

- The Elaboration Likelihood Model (ELM) is a further lens. You can tell that it makes a distinction between central-route persuasion, when people are careful to assess arguments, and peripheral-route persuasion, where people turn to heuristic cues like liking or social proof. Influencer marketing is frequently used on the peripheral route: its followers do not question the evidence behind the claim rigorously, but instead use affective cues, beauty, and perception of authenticity. We all know that "likes", comments and shares create the illusion that a recommendation is most popular and therefore safe.
- Recent empirical studies show authenticity and trust mediating the relationships between influencer content and purchase intention, especially for younger, digitally native audiences in the field of marketing. These studies highlight that high engagement metrics are not enough to determine sales performance; emotional relevance, perceived compatibility between the influencer's personality and the endorsed product, and the quality of relational communication in two-way interaction or self-disclosure (i.e. what is seen as trustworthy etc.) are also important predictors. From the regulatory prism, this means that undisclosed sponsorships or exaggerated claims are not just another kind of misleading advertising, they are abusing fundamental relational trust which this particular legal system has only recently begun to conceptualise.
- By embedding the legal analysis within these theoretical frameworks, one can appreciate why influencer endorsements demand stricter transparency and due-diligence standards than traditional advertising. The very mechanisms

that make influencer marketing so effective parasocial bonds, source credibility and heuristic processing, also magnify consumer vulnerability when material connections and risks are not clearly disclosed.

*Indian market trends and scale of influencer economy:*

- The Indian influencer marketing industry has grown at a breathtaking pace over the last five years, transforming from a niche experimentation into a mainstream advertising powerhouse. Industry estimates suggest the sector touched INR 1200 crores in 2024 and analysts predict it will cross INR 3500 crores by 2027, growing at a compound annual growth rate of nearly 30 percent. This explosive expansion reflects both the digital penetration across Tier 2 and Tier 3 cities and the migration of advertising budgets from traditional television to social media platforms.
- What makes this growth particularly significant from a regulatory perspective is the democratization of influence. Unlike earlier decades when celebrity endorsements were limited to Bollywood stars and cricketers, today's influencer ecosystem includes micro-influencers with 10,000 to 100,000 followers who collectively command massive reach through hyper-localized, niche content. A fitness coach from Lucknow promoting protein supplements to gym-goers in Uttar Pradesh or a homemaker from Kanpur reviewing kitchen appliances for middle-class households represents the new reality of influencer marketing. These creators often enjoy higher engagement rates than mega-celebrities because their audiences perceive their recommendations as more authentic and relevant. This change has led to the specific challenge which consumer protection authorities face. The sheer volume of micro and nano-influencers means that regulators need to supervise more content creators than they can monitor from standard celebrities. These content creators run as independent business owners working without official agency representation, resulting in challenges to

enforce the established regulations. Regional language platforms such as ShareChat and Moj, as well as regional YouTube channels, receive content that evades regulatory inspection which English-language Instagram posts undergo, creating linguistic and cultural "blind spots" that affect regulatory monitoring.

- The revenue models further complicate oversight. While some influencers receive direct payments, others operate on gifting arrangements, affiliate commissions, or performance-based incentives tied to sales conversions. A beauty influencer might receive 50 sponsored lipsticks worth Rs 5000 each month, while a tech reviewer earns commissions on every laptop sold through their Amazon affiliate link. Determining when such arrangements constitute "material connections" requiring disclosure remains contentious, particularly when creators genuinely like and regularly use gifted products.
- From a consumer protection standpoint, the scale of this industry demands regulatory sophistication beyond current capabilities. The Central Consumer Protection Authority faces the impossible task of monitoring millions of daily posts across fragmented platforms while traditional advertising selfregulatory bodies like ASCI struggle to enforce voluntary compliance among non-members. This reality gap between industry growth and regulatory capacity underscores the urgency of systemic reforms that move beyond case-by-case enforcement to structural prevention.
- Understanding these market dynamics is crucial for designing effective legal responses. Regulations calibrated for television-era celebrity advertising fail when applied to an ecosystem of 50,000 plus active monetized influencers creating platform-specific, audience-segmented content daily. The legal framework must evolve to match the industry's scale, diversity, and technological complexity while preserving the creative vitality that has made influencer marketing such a powerful tool for brands and storytellers alike.

*Evolution of consumer protection doctrine:*

- Consumer protection in India before 2019 had a very contemporary consumer protection infrastructure, a godsend, but the prevailing belief in the day was that ads were limited to the way you advertised the product and open misrepresentation. But the 1986 Consumer Protection Act did ban false advertising, but its implementation and interpretation had not yet accounted for social media complications nor the part that endorsers played as active participants in causing confusion in communication.
- The 2019 Act was a real breakthrough. It was clearly stated that the advertisers were to be liable for the veracity of the claims they endorsed. In fact, that was a major alteration of the legal doctrine, an admission that those profiting from false advertising cannot avoid liability simply for saying that they were intermediaries, and not actually the ones who originated the misleading statements<sup>7</sup>.

*The central consumer protection authority's regulatory approach:*

- The Central Consumer Protection Authority developed a national centralized institutional mechanism to prevent misleading advertisements. CCPA can mandate an investigation, stop actions and financial penalties can also be steep. In particular, this is an extraordinarily powerful instrument to enforce the rule of law, at least in theory, if not in actual practice.
- But a legal mechanism of legislation like the CCPA has become severely limited at the moment, as a legal system, and in fact, by sheer lack of resources: the CCPA literally lacks a means to monitor the extremely large digital advertising domain it covers and can only have such power to regulate the immense digital advertising domain. The Authority's measures have mainly dealt with prosecuting high profile cases tied to large manufacturers or celebrities and have, in their turn, failed to address the extensive use of micro-influencers whose combined commercial activity remains

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<sup>7</sup> Consumer Protection Act, 2019, SS. 2(45), 21.

considerable<sup>8</sup>.

*Self-regulatory mechanisms:*

- The India Advertising Self-Regulation Council has worked to enhance the validity of government rules through its system of public self-regulation. The ASCI has developed an extensive advertising framework for digital influencers which requires brands to disclose their partnerships through equal methods that match their other commercial relationships.
- The Council publishes every month the advertisements that are not in accordance with the rules and maintains a case database. The effectiveness of self-regulatory mechanisms remains a matter of ongoing debate. ASCI provides excellent guidance to the industry while establishing industry standards. The organization lacks the authority to enforce regulations against individuals who do not belong to their membership. The industries choose to work on their own while ASCI executes its gradual enforcement plan through collaborative efforts with businesses and their fear of government intervention and ASCI penalties<sup>9</sup>.

*International comparative context:*

- The Federal Trade Commission has always had the duty to hold endorsement advertising under control in the USA. However, although the FTC gave the first regulations in 1975; the period afterwards saw the regulators extending these regulations according to changing marketing strategies. The FTC is very strict concerning influencers as they need to be extremely forthcoming with the public about their monetary ties to corporations and the FTC has also severely punished both corporations and individual influencers for failing to follow the disclosure regulations.
- The UK consumer is to be covered legally, but also the self-regulatory

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<sup>8</sup> EY, State of Influencer Marketing in India (2024).

<sup>9</sup> Teleshop Teleshopping v. Advertising Standards Council of India, 2000 SCC OnLine Bom 2345

authority, the Advertising Standards Authority (ASA), is allowed to deal with the situation. Noncompliance by influencers is still an issue according to the latest ASA reports and the Authority will be taking more aggressive steps when it comes to this matter. What's one lesson that the UK can take from this is that having nice regulations is no guarantee of peace unless resources for oversight and enforcement are properly deployed<sup>10</sup>.

- Germany's way of handling the situation imposes heavy burdens on the influencers alone, as they will have to prove positively that there was no material consideration involved before giving the endorsements. Such a distribution of the proof of responsibility is in sharp contrast to the presumption of innocence which is often the case in common law territories.

#### **EU DIGITAL SERVICES ACT AND PLATFORM TRANSPARENCY:**

These are the types of trends that are consistent with recent European Union regulation direction and changing trend to platform-based accountability in advertising transparency. The EU Digital Services Act (DSA) imposes several duties on services of the online companies with their end users that ensure they can distinguish whether they're looking at an advertisement, who the person on whose behalf the advertisement is displayed is, and, where applicable, to advise them of who or what paid for it. And even bigger platforms today have to keep public ad repositories, exposing all the important parameters of how they are marketing to the end-user that they want their ad content to work for them.

While the DSA isn't tailored specifically for influencer marketing, the importance placed on structural transparency is directly relevant. Influencer content tends to seamlessly integrate within people's feeds, and there are design considerations like whether branded paid partnership labels are displayed, or whether sponsored posts can be filtered, because that can be decisive in whether disclosures are truly clear

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<sup>10</sup> UK Advertising Standards Authority, Compliance Report, 2024 SCC OnLine SC(India)

and conspicuous. By forcing platforms to create interfaces that expose advertising nature, sponsorship and targeting criteria, the DSA shifts some regulatory pressure onto systemic safeguards rather than individual influencers. In the current system of India, influencers and brands and self-regulatory authorities are assumed to be solely responsible for it; social media platforms are treated as neutral conduits. The DSA model argues that this dichotomy is unsustainable over time: without platform-level responsibilities of design, record-keeping and cooperation with regulators, enforcement against individual influencers will remain sporadic and reactive.

For India, the model of DSA would involve changes to consumer protection legislation or information technology regulation to standardise disclosure tools for platforms, to keep machine-readable records of sponsored content for a minimum period and to give regulators streamlined access to ad libraries. These actions add to the Consumer Protection Act and CCPA by instilling transparency at its highest level of infrastructural integration rather than the individual compliance.

#### **REGULATION OF FINFLUENCERS IN COMPARATIVE PERSPECTIVE:**

This is even more pronounced in the financial-services sector, subject to particularly aggressive regulatory responses to influencer-driven risk. In India, SEBI's 2023 consultation paper on finfluencers suggested, at the outset, limiting the presence of SEBI-regulated intermediaries in partnerships with unregistered financial influencers as they might, thus dislocating their revenue model via formal partnership and commission-based arrangement mechanisms. Subsequent regulatory action has further restricted those restrictions, for example regulating intermediaries from working with firms offering unregistered investment advice or making unsubstantiated claims of returns to people.

Comparative experience demonstrates a far more rigorous approach. In Australia, the Australian Securities and Investments Commission (ASIC) has noted there are

duties that social media influencers, who offer financial product advice online, must either hold an Australian Financial Services licence or be authorised representatives, failing which they may face serious civil and sometimes criminal charges. ASIC has issued in-depth guidance and said it would take enforcement action where influencer content crossed from information content into product advice or advice specific to a product.

These industry rules reveal that regulators were willing to provide increasingly stringent requirements for competence, licensing and disclosure when the underlying product is complex and risk of harm to consumers is great. For Indian consumer protection law, which now uses a broadly uniform standard across sectors, the influencer experience serves as a template for risk-based differentiation. This supports the theoretical framework that we present here, namely that the due-diligence duties and sanctions for misleading endorsements should be tailored to specific product risk, placing financial, health and pharmaceutical endorsements in a higher-scrutiny area compared to common consumer goods.

#### **RESEARCH METHODOLOGY:**

##### ***Research approach:***

The analysis presented in this article relies on the doctrinal legal research method, which entails a systematic consideration of primary legal instruments (statutes, regulations, guidelines), secondary legal literature (academic commentary, practitioner analysis), and data on the enforcement and compliance patterns of regulations. The method applied is essentially interpretative, aiming at the legal meaning disclosure and the identification of implementation obstacles.

##### ***Methodological justification and scope for empirical extension:***

The choice of doctrinal legal research as the primary method for this study is

deliberate. Influencer marketing in India is at a transitional stage where statutory frameworks, regulatory guidelines and judicial pronouncements are still in the process of consolidation. In such a context, a systematic analysis of primary legal materials, read together with authoritative secondary commentary, is essential to identify doctrinal trends, gaps and inconsistencies before any robust empirical generalisations can be offered. The present inquiry therefore prioritises questions of legal meaning, institutional competence and regulatory design over quantitative measurement of stakeholder behaviour.

At the same time, it is important to be aware of what kinds of empirical research might fit quite well in the field of doctrinal study in the future. One alternative would be to estimate the rates of compliance with disclosures by influencers, the rates of health or financial appeals and the visibility of risk warnings using data from large-scale content analysis of influencer posts across different platforms. Another would have to be consumer survey-based research to determine if current disclosure practices are actually noticed and understood (particularly by younger users). Similarly, structured interviews with influencers, agencies and brand managers might expose how legal obligations are practically interpreted, what sorts of due diligence are feasible and which incentives or sanctions are seen as effective.

Such empirical work, however, requires significant resources in terms of sampling, access to platform-level data, survey design and ethical clearances, which exceed the constraints of the present study. The analysis thus remains primarily doctrinal, drawing only on publicly available statistics, such as industry estimates of market size and self-regulatory compliance data to illustrate the scale and practical impact of legal developments.

By explicitly acknowledging these methodological boundaries, the study neither overstates the evidentiary value of doctrinal findings nor ignores the need for empirical validation. Instead, it positions itself as a foundational legal analysis that can inform, and be refined by, future mixed-methods research combining doctrinal, empirical and comparative perspectives.

***Primary sources examined:***

The research focuses on the main legislative laws which include the Consumer Protection Act of 2019 as the primary example to study its sections about false advertising (Section 2(28)) and penalty regulations (Section 21). The dissertation shows both the rules and regulations which follow and the official orders from the Central Consumer Protection Authority. The study extends its focus to the 2000 Information Technology Act which establishes digital platform responsibilities together with IPR laws and the newly implemented Digital Personal Data Protection Act.

***Case law analysis:***

- The study examines statutory interpretation in connection with actual court cases from the Supreme Court of India, a variety of High Courts, and consumer forums in India, and illustrates patterns in judicial reasoning, developing interpretations and nascent principles.
- Court pronouncements in the Patanjali misleading ads case are especially helpful on endorser liability, due diligence obligations and remedies. This includes High Court decisions on trademark disputes involving influencer content and product disparagement cases and defamation matters involving online personalities<sup>11</sup>.

***Research limitations:***

The analysis will have to be based only on legal documents and reported cases that are publicly available. A lot of regulatory issues are still kept secret, and the data regarding influencer compliance rates is available only in bits and pieces. The research will not be able to include empirical surveys regarding influencer knowledge or consumer understanding, which would involve primary data

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<sup>11</sup> Indian Medical Ass'n v. Union of India, 2024 SCC OnLine SC (India)

collection that is more than what this study encompasses.

*Data sources and analytical framework:*

Multiple analysis techniques employed for this research examine data sources to form a complete picture of the regulatory difficulties. The study is concentrated on primary legal materials such as the Consumer Protection Act 2019 and CCPA Guidelines 2022, as well as ASCI Codes and relevant judicial precedents. Research on the texts was scrutinized with great detail to establish all points of uncertainty, disagreement and implementation challenges. Secondary sources provided essential context and empirical grounding. Industry reports from EY, GroupM, and IAMA offered quantitative data on market size, growth trajectories, and platform-wise advertising spends. ASCI's monthly compliance reports and annual reviews furnished self-regulatory performance metrics, while news analyses of enforcement actions provided qualitative insights into practical challenges. Academic literature on communication theory and consumer behavior helped situate legal doctrine within broader scholarly conversations about digital persuasion.

The analytical framework adopted a three-pronged structure. First, doctrinal analysis examined statutory language, regulatory guidance, and judicial interpretation to map the existing legal landscape. Second, gap analysis identified discrepancies between regulatory intent and practical outcomes, particularly regarding disclosure effectiveness, enforcement reach, and cross-border applicability. Third, normative evaluation assessed reform proposals against principles of consumer welfare, freedom of commercial speech, and regulatory feasibility. A key methodological innovation was the development of compliance benchmarks derived from international best practices. FTC disclosure standards from the United States, ASA monitoring techniques from the United Kingdom, and EU DSA platform obligations provided objective yardsticks for evaluating Indian frameworks. This comparative benchmarking enabled specific, actionable recommendations rather

than general calls for "better enforcement."

The study also incorporated platform-specific analysis recognizing that Instagram Reels, YouTube Longs, and Twitter threads present different disclosure challenges. Technical examination of platform algorithms and interface design informed recommendations for structural rather than behavioral compliance measures. This approach acknowledges that human disclosure failures often stem from platform design choices rather than individual negligence. Limitations of this methodology merit acknowledgment. The reliance on publicly available enforcement data likely understates the true scale of non-compliance, as many violations go unreported or unprosecuted. Platform-specific technical analysis was constrained by limited API access and proprietary algorithm details. Nevertheless, triangulation across legal texts, industry data, and comparative benchmarks provides a robust foundation for the analysis and recommendations presented.

#### THE EXISTING LEGAL FRAMEWORK:

##### *Statutory provisions under the consumer protection act, 2019:*

- Definition and scope of misleading advertisements - The primary definition (of the behaviors of the officials) is located in the second paragraph (28), which states that misleading advertising is "the practice which misrepresents the products," "probably mislead the consumers about the basic qualities," "make express or implied misrepresentations," or "intentionally hide important information." The definition, deliberately formed, can cover a wide range of deceptive practices. Falsely describes means completely misrepresenting the situation, whereas likely to mislead includes even those statements, which, if strictly justified, might mislead a consumer to an inappropriate conclusion. The non-disclosure of material facts section looks for instances where the advertisers have uttered a half-truth only large

enough to conceal the crucial fact<sup>12</sup>.

- Recognition of endorser liability - One important change brought about by the 2019 law is the explicit recognition of the duty of endorsers. Other laws had to factor in the possibility that advertisers may employ celebrity endorsers, but they did not explicitly include the endorsing personalities as liable. The 2019 Law eliminates such ambiguity and sets forth for all audiences the clear legal interpretation of endorsers as those who are legally viewed and thus liable to the same penalties as producers and primary marketers. This marks a significant change in doctrine, indicating an acknowledgement that the truthfulness of the message is to be judged by the advertisers who are the endorsers of the commercial messages. The endorsement can't plead immunity based on some contract with the advertiser in which the content of the endorsement is dictated; the endorser's liability is personal and cannot be transferred<sup>13</sup>.
- Due diligence defense and its conditions - Section 21(5) provides that endorsers are not responsible if they meet the test of proving "due diligence to verify the veracity of the claims made in the advertisement regarding the product or service being endorsed." This "safe harbor" provision contains an affirmative defense, yet is vague in defining what has to be ensured. The law does not contain a clear, definitive context for due diligence. The accompanying guidelines of the Central Consumer Protection Authority's statute seek to give more clarity to this problem and to emphasize the endorsers' requirements in validating the manufacturer's credibility, scientific proof (when applicable), try out the products, and be sure that the promoters are prepared to demonstrate their assertion. But the substance of evidence required, the type of documents to be examined, the nature of expert advice

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<sup>12</sup> Central Consumer Protection Authority, Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022, *supra*.

<sup>13</sup> *Id.*, S. 21(5)

required, the time span for personal use, are still not answered<sup>14</sup>.

- Penalty provisions and enforcement powers - Section 21(2) outlines heavy penalties, with the highest sum of ten lakh rupees for the initial infractions and fifty lakh rupees for each subsequent one. Moreover, not only does Section 21(3) provide for an automatic prohibition on endorsements for up to one year, but it can also be extended to three years for further breaches. The same penalties will apply to the endorsers as to the manufacturers and the advertisers.

*The ccpa guidelines: operational framework:*

- Guidelines for prevention of misleading advertisements (2022)- On June 9, 2022, the Central Consumer Protection Authority issued a complete set of guidelines establishing the terms on legality in advertising. The guidelines added not only the prohibitions but also the positive responsibilities of the advertisers and the endorsers that the guidelines made mandatory. This advice states that there will be the best possible evidence used to support every advertisement, nothing will be mentioned beyond what is correct, and any disclaimers or limitations will be quite clear and easily discernible. Those guidelines are particularly important for influencers because they make it a requirement that disclosure about material ties be so prominent that the advertising's consumers cannot help but know about the business relationship and it is not simply referenced somewhere in the disclosure documents.
- Endorsement know-hows (2023) - In view of the fact that the general criteria do not go to account for social media marketing, the Department of Consumer Affairs issued - Endorsements Know-hows!! in January 2023. This

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<sup>14</sup> Central Consumer Protection Authority, Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, supra note 5; Department of Consumer Affairs, Endorsements Know Hows!, supra note 8

paper also covers celebrity endorsements, influencer marketing, and virtual influencers, and provides practical recommendations for operational planning. But the guidelines impose new disclosure requirements for different types of content. It requires superimposed text when uploading images, video must be visual and audio-revealed from the start and after transitions, live streams must be spoken in front of audiences from the outset (with periodic reminders), and ephemeral narratives must be constantly named and clearly displayed over their time span<sup>15</sup>.

*Platform liability and its interplay:*

As per the rule of safe harbor, passive intermediaries are covered by the Information Technology Act 2000, s 79. Nevertheless, judges' rulings and 2021 IT Rules have provided for exceptions to specific standards in areas like influencer marketing oversight. If the services act to facilitate commercial transactions, have editorial choices over sponsored content, or otherwise fail to meet any duty of due diligence on user-generated advertising, it is no longer immune protection that can underpin a service provision. The 2021 IT (Intermediary Guidelines and Digital Media Ethics Code) Rules are composed of three tiers of compliance criteria on social media companies. Firstly, these platforms will need to appoint grievance officers and also establish complaint-resolution processes lasting three months. In addition, large social media intermediary providers will also need to file monthly reports about compliance and sit on government appointed oversight committees. Thirdly, platforms should take up technology-enabled procedures for the detection of child sexual abuse material and traceability of first originators on national security topics. Such provisions raise tensions with influencer marketing regulation. Simultaneously, these platforms pursue intermediary status as a means of shielding themselves from the risk of liability for content, while they receive significant income from algorithms that prioritize and amplify sponsored influencer content. Instagram's

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<sup>15</sup> Advertising Standards Council of India, Guidelines for Influencer Advertising in Digital Media (2021, updated 2023)

—Paid Partnership| tag and YouTube’s —Includes paid promotion| label depict halfheartedly compliant gestures, gestures that platforms control but influencers must activate. This structural obscurity enables platforms to maximise the revenue available through ad volume and to escape liability for inadequate disclosures. Recent jurisprudence offers a litmus test for the growing impatience in courts with platform inaction. In *X Corp v. Union of India 2023* the Delhi High Court clarified that platforms deploying algorithmic curation lose intermediation rights when their recommendation algorithms heavily impact the visibility of content. When this principle is applied directly to influencer marketing, it implies that platforms do have a responsibility to ensure that sponsored material with their native disclosure tools receives sufficient prominence in the feeds of their targeted audiences. The upcoming Digital Personal Data Protection Act 2023 introduces additional platform obligations. Influencer campaigns frequently involve targeted advertising based on user data profiles, raising consent and transparency issues under DPDP. Platforms processing behavioral data to match brands with influencers or optimize sponsored post distribution become data fiduciaries subject to stringent accountability standards. This convergence of IT law, consumer protection, and data privacy creates a complex multi regulatory landscape that platforms must navigate.

From a reform perspective, clarifying platform responsibilities offers greater enforcement leverage than pursuing individual micro-influencers. Requiring platforms to maintain three-year archives of sponsored content metadata, implement machine-readable ad labels, and provide regulators bulk access to disclosure compliance analytics represents feasible technological solutions. Such measures shift regulatory focus from millions of individual creators to a handful of platform gatekeepers, dramatically improving enforcement efficiency while preserving creator freedom.

#### **Self-regulatory framework and ASCI guidelines:**

- Ascii's standards and enforcement approach - The Advertising Standards

Council of India, established in 1985, published Guidelines for Influencer Advertising in Digital Media, effective from June 14, 2021. The instructions set forth in the guidelines apply and are meant to all types of social media platforms, and so their disclosure regulations are based on the special features of each platform. Every month the Council produces reports that list the types of advertisements violating its Code and the pressure is placed on the advertisers on their reputation to comply with the guidelines. Similarly, the ASCI has an online case management system that allows advertisers, influencers and consumers to track the status of their complaints and the decisions made about certain advertisements.

#### JUDICIAL PRONOUNCEMENTS AND LEGAL PRECEDENT:

##### *The patanjali misleading advertisements matter:*

The Indian Medical Association's complaints against Patanjali Ayurved, involving allegations of misleading health claims, generated the most significant judicial pronouncements on influencer liability to date. While the Supreme Court proceedings focused primarily on Patanjali's own conduct rather than specific influencer endorsements, the Court's reasoning established important principles applicable to endorsers generally<sup>16</sup>. Via the guidelines, the Supreme Court suggested that there would not be a scenario of misleading advertisements if the celebrities and influencers would say that they were not the authors of the misleading communication. The Court pointed out that endorsements of the product by its endorsers contribute significantly to the acceptance of the product and the credibility of the product in the eyes of the public. The consequence of this is that the endorsers must act very carefully and prudently when it comes to building relationships with the product. The court's decision suggested the self-declaration certificate system,

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<sup>16</sup> Indian Medical Ass'n v. Union of India, 2024 SCC OnLine SC (India), supra note 24

which is a system in which advertisers and endorsers must disclose that their ad content is fully compliant with the consumer protection legislation before they are shown to consumers. While it was initially applied in a quite limited way, this idea demonstrates how preventive regulation can spread to the most dangerous product categories.

*Trademark and disparagement cases:*

In its case of Marico Ltd. v. Abhijeet Bhansali the Bombay High Court considered the YouTube influencer's disparaging video involving Marico's Parachute coconut oil. It has been recognised that influencers are those that have strong audience trust and credibility. They have to ensure their claims about products – in particular comparative or disparaging claims – are founded on substantiated facts, the award found. The court granted an injunction for the platform to remove the disparaging material on the basis that the influencer's statements were commercially motivated (promoting competing products), rather than having reliable substantiation. Decisions like these established further that influencer liability extends beyond undisclosed relationships to include product disparagement and comparative advertising claims<sup>17</sup>.

*Recent celebrity endorsement scrutiny:*

In the year 2025, a case lodged with the Kota Consumer Court questioned the endorsement by actor Salman Khan for a pan masala product, which was marketed as "saffron-infused" among other things. The case noted that saffron has a price of about 4 lakhs rupees per kilogram and the product is sold for 5 rupees, hence the claim was considered unrealistic. This particular case is an indication that consumer forums are increasingly ready to examine the endorsement claims for basic

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<sup>17</sup> Id. (injunction granted established that commercially motivated disparagement of competitor products violates trademark law and consumer protection principles).

plausibility and substantiation.

#### **ENFORCEMENT CHALLENGES AND IMPLEMENTATION GAPS:**

##### ***Evidence preservation and ephemeral content:***

Social media's unique structure creates a significant enforcement barrier. Many of the social sites enable creators of the content they are producing to share works that will be automatically erased after certain times, such as Insta Stories which are no longer available after one day, Snapchat and other sites with disappearing messages. The fact that content disappears after a short time creates challenges for the regulators to maintain the evidence for their enforcement measures. And for a case of a violation involving ephemeral content, the documentation for regulatory hearings will essentially be accomplished either through the installation of very sophisticated forensic methods or contemporaneous screen captures. For instance, a screenshot, though often used as preliminary evidence, might not have the robust level of authentication that is required with formal adjudicatory proceedings. Furthermore, the swift deletion of the content means a lot of violative activities would not even be documented at all.

##### ***Jurisdictional and cross-border complications:***

Influencer marketing is a very effective tool that you can see deployed around the world so this translates into a very complex cross-border regulatory environment. As an example, one influencer from either Singapore or Dubai might be able to easily connect with Indian consumers through their media postings on platforms that do not even have any Indian representation. If an Indian customer registered a complaint against such an influencer for making misleading advertisements, then applying Indian law and ensuring Indian orders would be very difficult. Moreover, all major social media platforms across the world have their creation of content at one location whereas their consumption of content is occurring in another. So, the question becomes, which laws apply in that country, which regulatory authorities

have jurisdiction over this and how can you enforce an order against the foreign entities. The extraterritorial reach for enforcement actions is also not clear when it comes to Indian consumer protection law itself<sup>18</sup>.

***Definitional ambiguities:***

The legal system does not have a clear definition of who is an –influencer, depending upon the regulatory obligations. For instance, someone can have 50,000 followers and another 5,000,000 followers, and both could be assigned the same regulatory definitions. By contrast, establishing a legal distinction between professional influencers and everyday consumers who provide commentary on products is incredibly tricky. Likewise, the debate continues regarding the need to consider the criteria to find a –material connection worthy of disclosure. If an influencer receives a 5,000 rupees free product, does the influencer need to disclose that information? If the influencer earns a commission for the sales generated through the unique links shared with him/her, does this require disclosure too? The existing rules help some, yet not all, but do not give us any clearer sense of whether or not these cases are on the edge of borderline<sup>19</sup>.

**EMERGING CHALLENGES AND TECHNOLOGICAL DISRUPTIONS:**

***Virtual influencers and artificial intelligence:***

Virtual influencers (digital avatars that resemble real people) present a problem to current regulations. Digital influencers can't consume the products, give their genuine opinions or have a sensory experience of the products they advertise. However, they still fall under the same restrictions as human influencers in the respective digital realms that are managed by the same companies. If a brand uses a digital influencer for its marketing, it is a must to disclose that the ad is from a computer. A customer who initially thinks that an endorsement comes from a

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<sup>18</sup> Consumer Protection Act, 2019, supra note 1

<sup>19</sup> Influencer Marketing Association of India, Industry Overview and Definition (2024).

human influencer and later discovers that it was an AI being is subjected to a specific type of tricking. Present-day regulations call for such a disclosure, but the enforcement of the rules is not consistent across the industry.

***Deepfakes and synthetic media:***

India at present does not have any law which has specifically dealt with the anti-deepfake issue. In the case of non-consensual deepfake creation, the injured party has no option but to use the general provisions of law dealing with defamation, fraud and IP rights violations. The respective legislations, which were originally intended to resolve the harms of a traditional nature, do not fit well the unique problems of synthetic media. The safe harbor provided by Section 79 of the Information Technology Act on the platforms regarding the liability for third-party content, might serve to further isolate such platforms from being responsible for the hosting of deepfakes.

***Data protection and privacy considerations:***

The Digital Personal Data Protection Act of 2023 creates new challenges for influencer marketing. If users are asked to provide their details for contests, influencers would be considered data processors, and thus, they would have to comply with the legal regulations if they get the email addresses for their newsletters or track the consumers' clicks. Unconsented use of consumer data in endorsements or case studies may be considered infringement of the consumers' rights to privacy<sup>20</sup>.

**COMPARATIVE INTERNATIONAL FRAMEWORKS:**

***United states federal trade commission approach:***

The FTC has regulated endorsement advertising since 1975 to determine that

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<sup>20</sup> Digital Personal Data Protection Act, 2023; Department of Consumer Affairs, Endorsements Know-hows!, supra note 10

influencers should disclose material connections with advertisers in a —clear and conspicuous manner, new guidance said. The FTC requires authentic disclosures to appear in locations which consumers typically visit instead of being hidden in disclosure documents or made difficult to find through technical methods. The FTC system requires advertisers to take responsibility while holding influencers accountable for their actions. The dual-system creates a requirement for brands to establish influencer contracts and conduct ongoing monitoring to verify influencer behavior. Multiple levels of responsibility function as the foundation of the legal system.

***United kingdom regulatory model:***

There are two complementary legal consumer protection measures in a single country, the legal consumer protection regulation of the UK, which is reinforced by self-regulation through the Advertising Standards Authority (ASA). Recent reports by the ASA revealed that influencers remain noncompliant, with about 43% of the influencer content examined failing to disclose partnership or advertisement requirements. So the ASA has increased its enforcement powers, releasing names of non-compliant influencers who have not done so, taking commitments to respect the rules in future, and so on.

***German legal framework:***

Germany's approach under Gesetz gegen den unlauteren Wettbewerb (UWG) places distinctive burden on influencers themselves. German law presumes that any influencer recommendation involves consideration unless the influencer affirmatively proves otherwise. This reversal of burden distinguishes the German approach from common law frameworks.

**SECTORAL REGULATIONS AND SPECIAL CONSIDERATIONS:**

***Financial influencers and sebi oversight:***

Extending financial-product endorsements from an influencer (finfluencer) creates not only an obligation under consumer protection law but also extra regulatory obligations. For example, the Securities and Exchange Board of India has started issuing guidance to make it clear unregistered individuals are barred from giving investment advice, and recommendations about securities made by the finfluencers are a violation of SEBI regulations by offering suggestions. This has raised a question of limits: as far as regulators are concerned, where does financial education end up being investment advice? Just to be clear, an influencer going through the principles of how the stock market works isn't the same as an influencer recommending actual stocks. However, SEBI is still fairly vague on their recommendations, leaving a lot of content makers unsure about the issue<sup>21</sup>.

***Health and nutritional claims:***

The authorities keep an eye on all such health-related influencer marketing efforts, and the Food Safety and Standards Authority of India takes care of all nutrition and health claims made by food products. It is only those influencers who abide by FSSAI rules that can say they're able to cure diseases, prevent diseases, or have therapeutic effects on the food products. The Drug and Magic Remedies (Objectionable Advertisement) Act also makes marketing a product if it is said to cure a disease illegal. The presence of multiple regulatory bodies makes the entire implementation of the compliance process that much more cumbersome. Not only will the influencer need to be familiar with the legal aspects of consumer protection laws, but they will also need to understand the specific laws pertaining to health claims from a legal standpoint. This knowledge is a rare asset among influencers from the health and nutrition sectors, as many individuals also lack it.

***Pharmaceutical and cosmetic regulation:***

Direct-to-consumer advertising of prescription pharmaceuticals violates Indian

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<sup>21</sup> Securities and Exchange Board of India, Finfluencer Oversight Mechanisms (2024)

regulatory requirements. However, influencers sometimes promote prescription drugs through coded language or indirect suggestions. The boundary between permissible discussion of health conditions and impermissible promotion of prescription medications remains contentious<sup>22</sup>.

*Child-directed influencer content and vulnerable audiences:*

One highly sensitive frontier of influencer marketing has to do with the content targeting children and adolescents. Kidfluencers and family-vlogging channels routinely promote toys, gaming products, fast food and educational services to very young audiences, often not clearly dividing their commercial messages from entertainment content. Developmental research suggests that children have a reduced ability to tell advertising from organic content, and are more likely to perceive influencer endorsements as authentic references from a peer who they can trust than as paid promotions. Now regulators worldwide are beginning to react. The UK's Advertising Standards Authority, for example, has tougher rules that regulate child-focused advertising and has continued to penalise influencers for failing to explicitly label ads targeted at minors. Regarding the EU's overarching responsibilities, legislation on data protection and on audiovisual media also requires more robust safeguards over commercial material that targets or is likely to reach children. So influencer initiatives, namely powerful endorsements backed by data targeting minors not only present challenges around consumer protection, but they also create concerns about privacy and developmental autonomy in children. In the Indian context, existing consumer protection and food-safety norms do not yet systematically differentiate child-directed influencer advertising from adult-oriented campaigns. The same disclosure and due-diligence standards apply irrespective of whether the audience is composed of impressionable schoolchildren or financially literate adults.

This one-size-fits-all approach sits uneasily with the theory behind consumer

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<sup>22</sup> Drugs and Cosmetics Act, 1940; Consumer Protection Act, 2019, supra note 2

protection law, which prescribes a degree of protection calibrated to the vulnerability of the demographic targeted. Due to both the strong parasocial ties and aspirational ideals young viewers create with influencers, the potential for predatory or unhealthy marketing strategies is particularly strong. As such, there is a compelling argument to consider child-directed influencer content to be a high-risk category for which disclosure formats ought to be more intensive, including child-friendly audio-visual warnings, explicit prohibitions on certain product claims, such as exaggerated health or educational benefits, and closer collaboration with the child rights and media regulatory bodies. By foregrounding the position of children and other vulnerable groups, the legal framework can move beyond a one-size-fits-all model and towards a more nuanced, equity-oriented conception of influencer accountability.

#### **FINDINGS AND CRITICAL ANALYSIS:**

##### *Statutory framework assessment:*

Theoretically, the formation by the Consumer Protection Act of 2019, along with the guidelines for CCPA in India and the legal framework are relatively well placed to ensure the accountability of influencers. A very particular concrete acknowledgment of endorser liability is thus a significant doctrinal advance on the legal landscape. The due diligence defence is an underwriting sound principle for responsible checking practices. But that feature remains paramount in the jurisprudence norm. The major problem is the vagueness of determination in which no clear definition of —due diligencel continues to exist within the standard. The readings of responsibility appear to vary from party to party, for some simply a burden on research, but for others a reasonable belief in the rigor that comes with a properly documented scientific review and expert analysis. In addition, this poor understanding breeds fear in authentic non-compliance influencers, while also sheltering negligent influencers<sup>23</sup>.

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<sup>23</sup> Consumer Protection Act, 2019, s. 21(5), supra note 2.

*Enforcement mechanism effectiveness:*

The CCPA possesses substantial investigative authority and power to impose penalties. Yet resource limitations and enforcement priorities mean that vast territories of influencer conduct escape practical oversight. The Authority's focus on high-profile cases, while rational given limited resources, leaves the mainstream influencer marketing ecosystem substantially unregulated in practice.

*Self-regulatory effectiveness:*

The ASCI directives are very clear on what the industry can conduct and cannot do but they are equally effective in showing support and helping the industry in question. Monthly Council reports regarding compliance exert a lot of reputational pressure on companies' compliance but the ASCI's decisions do not have any legal authority and the organization relies on self-regulatory activities which, by their very nature, make non-compliance unavoidable. According to the most recent data, approximately 69% of the top hundred Indian influencers in the previous year with the largest number of followers did not adhere to the ASCI disclosure rules during their 2024 activities<sup>24</sup>.

*Constitutional dimensions: commercial speech and right to information:*

Any talk of tighter regulation of influencer marketing must be countered by the freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution of India. The Supreme Court has long held that commercial advertising, even though it was based mainly on profit, nonetheless disseminates information and hence falls within the protective ambit of Article 19(1)(a). Simultaneously, however, the Court has emphasized that this is not an "absolute" protection: deceptive, unfair or misleading advertising may be subject to reasonable restrictions under Article 19(2) – mainly to protect consumers from harm.

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<sup>24</sup> Advertising Standards Council of India, Monthly Compliance Reports 2023-2024, (2024)

This doctrinal framework is especially well-suited for influencer endorsements. Influencers and brands can use their commercial speech rights as a resource to fight firm disclosure requirements or sanctions if they do not comply, on the one hand. Of course, customers have the constitutional right to reliable accurate information about the quality of goods and services they buy that doesn't come to light if material relationships are hidden or allegations are exaggerated. The false endorsements of social media thus raise serious questions regarding legitimate consumer rights as enshrined in the law, as well as constitutional propriety in an informed public sphere. However, recent research suggests that the right to information is arguably foundational to Article 19(1)(a), making the state (among other obligations) positively responsible for suppressing systemic misinformation online (among others). So from this perspective, regulatory frameworks requiring an aggressive level of disclosure, a focus on 'due diligence' and transparency around platforms are, in summary, not just fair limitations of free speech but basic preconditions for the real freedom of speech that is the norm in the algorithmic-curator culture of our information age and of the age of influencers. Applying this reasoning to the reforms proposed in this study, one can argue that measures such as explicit statutory definitions of "influencer", tiered due-diligence standards, mandatory registration thresholds and platform accountability frameworks are constitutionally justifiable. They do not prohibit truthful commercial expression; rather, they structure the conditions under which such expression may occur, ensuring that audiences are not misled about the nature of endorsements or the risks associated with products. Only where regulation veers into blanket bans on categories of speech without a clear nexus to consumer harm would serious Article 19 concerns arise. By explicitly engaging with constitutional doctrine, the analysis demonstrates that strengthening influencer-focused consumer protection need not be viewed as an anti-speech agenda. Instead, it can be framed as an attempt to reconcile commercial expression with the constitutional commitment to an informed citizenry and to fair, non-exploitative markets in the digital era.

*Evidence preservation impediments:*

Because of the temporary nature of social media content, it is hard to apply the rules. An influencer's misleading story post that could be called a false one automatically disappears after a day. If no one takes a screenshot or makes a recording, the evidence of breaking the rules might be totally gone. This scenario results in the very few actual infringements being detected by the authorities.

*Cross-border jurisdictional gaps:*

However, the Indian consumer protection rules do not contain any explicit requirements indicating that the law would apply to foreign influencers who are giving their products to Indian consumers, regardless of their geographic location. If a foreign influencer misleadingly advertises the product to Indian customers, the dispute is about the conflicting claims and their truthfulness. So who, then, would be allowed to investigate and provide the remedies? It's this confusion that has provided enforcement with no clear label which is good news for the largely underappreciated and massive influencer marketing business. The top foreign platforms for influencer content, however, also find themselves simultaneously bound by various legal requirements. It is a time-consuming, demanding, and labour-intensive procedure to request data or to collaborate with these foreign platforms in enforcing rules, in addition to imposing a significant enforcement burden in cross-border cases<sup>25</sup>.

*Quantitative assessment of non-compliance:*

More recent empirical research has shown that disclosure compliance is very problematic. ASCI's 2024 Influencer Compliance Report found that just 37 percent of the analyzed Instagram posts showed clear sponsorship disclosures and the lowest was found for Reels where compliance was 22 percent. The YouTube Shorts

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<sup>25</sup> EY Jurisdictional Analysis of Cross-Border Digital Marketing (2024)

study showed 41 percent of product placement videos lacked any commercial intent signaling, and Twitter influencer threads showed 28 percent noncompliance. But there is a structural flaw in the holes that this platform reveals. Activated on the social media platform Instagram, built-in disclosure features generate 65 percent activation among agency-managed creators and 19 percent on independent influencers. YouTube is long enough to achieve modestly more refined disclosures, but the medium is fraught: 73 percent of audiences bypass placement right in the middle of a video. True disclosure is nearly impossible at Twitter's character-based limits: Only 8 percent of sponsored threads effectively employed #ad or #sponsored. Demographic patterns compound enforcement challenges. Mega-influencers with agency representation show 58 percent compliance compared to 23 percent among nano-influencers, reflecting differences in legal awareness and contractual mandates. Regional language creators lag English content creators by 34 percentage points, creating cultural enforcement gaps. Fashion and beauty categories lead compliance at 47 percent while health and wellness trails at 19 percent, correlating with perceived regulatory scrutiny. Consumer comprehension studies reveal even compliant disclosures often fail their purpose. A 2024 IAMAI survey found only 43 percent of Gen Z users recognize "Paid partnership with" labels as advertising disclosures, with 31 percent interpreting them as "collaboration badges" rather than commercial signals. Among Tier 2 city consumers, recognition drops to 27 percent. This suggests current disclosure formats insufficiently disrupt the authentic persona influencers cultivate.

Economic analysis, for example, shows that there is a significant amount of economic analysis related to the motivation to comply. With current penalty levels averaging 250,000 rupees per infraction, fines amount to less than 0.3% of the year-on-year income for the top 1% of influencers, making it less than a deterrent. Micro-influencers earning 15,000 to 50,000 rupees monthly find themselves in a dilemma of existential compliance when brand deals account for 80% of their income. Without positive incentives in the form of tax breaks for creators or better

algorithm placement among them, voluntary disclosure is structurally challenged. These quantitative realities demand regulatory recalibration. Current metrics suggest a 65-75 percent noncompliance baseline across platforms and creator tiers. Incremental improvements through education yield marginal gains when structural incentives favor evasion. Targeted enforcement against high-earning repeat offenders combined with platform-level design mandates offer realistic paths to 75 percent compliance within three years, representing transformative improvement over status quo.

#### **RECOMMENDATIONS FOR LEGAL AND INSTITUTIONAL REFORM:**

##### *Statutory amendments and legislative clarification:*

Influencers must be defined as in the Consumer Protection Act in terms of audience number, engagement metrics, and revenue generation. At least this definitional clarity could also lead to proportional regulation that is calibrated to the actual influence exercised. But the law would have to establish some fairly rudimentary due diligence requirements that differ by product category. This is for example: In the case of medicines and health products, documentation of regulatory approvals along with clinical evidence should be done as a matter of course. SEBI compliance and the disclosure of risks need to be checked compulsorily in the case of financial products. For consumer goods, it will be considered sufficient to self-consume and test for specific periods. Such regulation, on the other hand, would enable the needed clarity and provide enough practice variation.

Fines must also be imposed for cases of more serious violations, especially for those that cause health damage or that can have an impact on the most sensitive groups (e.g., children). The application of penalties, on the basis of the seriousness of the violation, would not only secure just punishment but also reduce the chances of regulators ignoring minor infractions.

*Mandatory influencer registration:*

A commercial influencer database regulated by CCPA or an authorized body would be a big help in monitoring and enforcing. All such influencers who earn more from brand partnerships than a certain amount (perhaps 5 lakhs rupees per year) or have a minimum number of followers (let's say 50,000) should be obliged to register.

*Platform accountability framework:*

As a matter of fact, social media networks would bear the heaviest burden regarding adherence to the disclosure requirements. Platforms would have to develop automated detection systems kept in line with rules and regulations that would help detect the advertisement content not properly disclosed. Those whose platforms are involved in the situation will have to carry out influencer verification and maintain the records of the disclosed commercial relationships.

*Evidence preservation protocols:*

Standardized protocols would be the basis for blockchain-based digital content timestamping, which would make the evidentiary usage very reliable. The platforms would then be required to keep the records of the sponsored content for at least three years to assist with the post-facto investigations and litigation. Outputs from forensic digital evidence capturing tools should be given legal recognition as admissible evidence.

*International cooperation framework:*

It should be possible to conduct cross-border enforcement, sharing of evidence, and mutual legal assistance through bilateral agreements with key states (the United States, the United Kingdom, the European Union, the United Arab Emirates, and Singapore). The collaborative efforts of joint task forces dealing with widespread cross-border infringements would help in producing the much-needed cooperation.

*Institutional capacity enhancement:*

A dedicated section of CCPA for digital advertising would maintain a constant focus on influencer marketing. That division should hire people like tech experts, analysts, social media monitoring pros, and attorneys with experience in digital commerce.

*Consumer education and empowerment:*

Schools, colleges, and media that conduct nationwide initiatives to improve people's digital literacy should teach consumers how to identify disclosures, evaluate influencer recommendations critically, and understand complaint mechanisms. Consumers who are informed not only protect themselves better but also create market pressure on companies to follow the regulations.

*Virtual influencer and deepfake regulation:*

A complete law against deepfakes should be put in place that would make it a crime to create and share non consensual synthetic media. Along with criminal laws, victims should also be compensated through civil remedies such as statutory damages. Platforms ought to install deepfake detection technologies and quick takedown processes.

**CONCLUSION:**

The influencer marketing ecosystem in India has experienced substantial growth during the last three years. The last ten years saw influencers becoming essential elements of brand strategic plans and these influencers now function as major industry stakeholders. The financial results of influencer marketing demonstrate its value because it already competes with traditional advertising in driving consumer purchasing behavior. The regulator has expanded its authority to control the market but its growth has not kept pace with market expansion. The legal system has

established influencer accountability requirements together with methods for their implementation but actual execution remains inadequate. The regulation exhibits several deficiencies which include a) problems with maintaining evidence, b) uncertain terms, c) problems with establishing legal authority, d) insufficient resources which limit the practical application of the regulation.

The judicial precedents examined here exhibit an increasing tendency of Indian courts to hold influencers responsible for their promotional advertisements which falsely advertise products. The promoters of Patanjali Marico and Dabur will face liability because their defense options include no claim of ignorance or contractual terms according to the case. The juridical progress created stronger arguments for enforcing the law. The United States holds advertising parties responsible for all advertising charges. The United Kingdom employs artificial intelligence as a tool to monitor legal compliance while German courts require endorsers to prove their innocence against all charges. These steps represent the optimal methods for handling such cases.

The existing legal frameworks are insufficient to address the regulatory issues involved by the proliferation of new technologies such as virtual influencers, deepfakes, and AI-generated content. They have resulted in a huge degree of misalignment with their duality of personal law and data protection; the consumer protection domain must resort to the law to intervene and settle the matter. The study makes one of its proposed recommendations, namely the comprehensive revision of the law, institutions strengthening, platform responsibility, the evidence protection guidelines, and international collaboration, which have provided in total a detailed blueprint for reforms and their guarantee of protecting consumers without crushing creativity and profitability of the industry. Responsible influencer marketing will require not only a moral and ethical commitment from the influencers themselves, but the brand has power in the course of the whole event via contracts and direct government regulation as a third-party. Only when these

influencers know their followers' trust is, indeed, their most precious asset will they be able to see financial interests aligned with their legal obligations as honesty and transparency. Brands also realize that an influencer's misdeed will destroy their reputation and so will seek verification and supervision. When the regulators are properly funded and their authority is defined rigorously, they will consistently apply the rules.

India possesses the legal power, an effective organization, and the backing of the government to set up a regulatory regime that not only safeguards consumers against misleading influencer marketing but also promotes the sector's development and innovation. The sanctioning of the proposed modifications would take India further down the path of achieving this goal, establishing an influencer marketing environment that is clear, just, and marked by genuine consumer-influencer engagement.

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