

Who Influences the Influencers?



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1. Introduction

When you click on influencers' pages and go through their feed, how many times do you ask yourself who is behind the post and who are the specific people they are trying to target?

A viewer absorbs the indirect information presented on social media and at times assumes it is pure and genuine. The power of social media today in the marketing world is undeniable, it even presented a modern approach to advertising known as "Influencer Marketing" presented by collaboration campaigns between brands and influencers.

The flexibility it offers widens the scope of reach for agencies and advertisers because an influencer can be anyone, anywhere. It opens the door for brands to reach out for more power over the market and renders them the real influencers in disguise.

However, the rise of both "macro" and "micro" influencers is a two-sided coin for brands since there is little control over what they decide to sponsor and what just results out of personal recommendations. Their identity and marketing strategies may clash with the content and values of a certain influencer and may cause damages to the image of the brand.

Hence, both the advertisers and the influencers should consider setting legal grounds to their relationship for it not to walk an incorrect path especially that in this field, transparency is in the interests of all parties.

2. When is the law applicable, what can it regulate and who does it protect?

As technology advances and more people rely on the internet, many countries around the world aim to regulate the online entertainment industry and address the legal issues concerning online interactions. A social media influencer has the power to persuade people but how can authenticity be measured and credibility controlled in Lebanon and abroad?

Generally, a brand has the choice to pick who represents it and under what terms. It also has the right to set what to offer and what it is expecting in return. On the other hand, an influencer is also free to accept the conditions, negotiate or not. The deal that may take place between the two parties here has many shapes. An influencer may accept to mention a certain product and in return receive free of charge, a loan or a rental of some products in return. Others prefer to get paid and set their prices per story or post while others are encouraged to take part of the promotion and in return get a coupon or a discount code.

To be considered a collaboration, there must be this direct connection between a certain brand and the influencer. Additionally, the influencer and brands also have a duty towards the users, to make it easy to differentiate between a collaboration and a simple post. It's also the viewers' right to know when they're being advertised to so that they won't be misled or confused.

A. The Canadian and English Approach to the Regulation of Social Media:

Few countries in the world were able to successfully regulate this field. The Canadian law draws a thin line between an influencer and a "wannabe". In order to be a law abiding influencer and marketer, one must keep in mind the existence of the Competition Act, the Competition Bureau (the "bureau") and Advertising Standards Canada ("ASC").

According to the Canadian Code of Advertising Standards, this connection should be "clearly" and "prominently" disclosed.

To do so, Instagram helped by adding the "paid partnership with..." feature that appears above a post or in a story. This feature showcases the commercial relationship between the person and the business partner that's mentioned, and that they were compensated in some way for the post. The latter also helps advertisers access the post's statistics and find out its insights and reach.

Aside from that, the influencer can clearly write in the caption that a certain post is sponsored. Based on the Canadian Code of Advertising Standards, this statement should be written in the first three lines of the description to make it noticeable for the viewers. It can be written as a hashtags such as: #Sponsored #Collaboration #Ad #Promoted...

Additionally, in the United Kingdom, the Advertising Standards Agency alongside the Competition and Markets Authority created a guide on the rules of sponsored content. The UK based their approach on the already existing laws about advertisements and sponsored content. From the Consumer's Rights Act and the Non-broadcast Advertising, Sales Promotion and Direct Marketing (CAP) Code a guide was created to illuminate how the law applies to social media. It's very important to understand that through social media, a user can reach everybody, there are no borders and not only one jurisdiction should be taken into account.

B. The Applicable Laws Monitoring Social Media Relationships in Lebanon

As for Lebanon, Social Media platforms are very popular and have played major roles in advertisements, campaigns and social or political activism.

Recently, ABAAD NGO launched its “Shame on Who?” campaign against gender-based violence on social media by sharing a video of the judgmental reaction of the society.

Additionally, in 2015 the public used social media to protest against the government and the waste crisis in the country by creating the “You Stink” campaign that went viral and has more than 200k followers on Facebook today

There is no law in Lebanon that targets this subject directly and straightly yet. But, a number of laws and regulations are applicable to some extent and should be taken into consideration.

The business communication of the two parties is mostly done via email and the Lebanese E-Transaction law enacted in 2018 can play a major role in this situation. According to this law, emails are now a way to conclude contracts, E- documents and E-signatures are recognized by virtue of law. What the brand offers and what the influencer agrees upon create mutual obligations on both, enforceable by the law.

Additionally, the Consumer Protection Law can be applicable to social media advertisement. Article 11 of the latter states that wherever an advertisement is made, it should be completely honest in its substance. Meaning that both the advertiser and the social media influencer should make sure to provide the viewer with real information or can be legally prosecuted.

As for the Lebanese Media Law, it covers matters related to TV and radio stations and the Publishing and Publications Law is directly related to newspapers. The citizens are well aware that there needs to be a modern approach that keeps up with the technological advancement. For this reason, the proposal of the new Media Law suggests a whole section dedicated to the electronical aspect of media. Which will set rules and obligations for the bloggers and influencers to abide by and in return offers them protection.

For the time being, with the absence of clear guidelines, laws and regulations, one must seek to protect such a business relationship beyond verbal agreements. Aside from emails, the parties involved may sign a service contract to work within their shared legal context and guarantee legitimacy, authenticity and validity.

This contract regulates self-advertising, the number of posts, their content, the parties’ duties and obligations towards each others and towards the viewer.

Lastly, compared to other countries in the region, Lebanese laws are somehow developed because the Lebanese citizens enjoy their freedom of speech. This freedom is guaranteed within the scope of the law according to Article 13 of the Lebanese Constitution.

However, whether it is print, broadcast or social media, the Lebanese government enforces the Penal Code's defamation laws which may subject influencers and bloggers to detention. What is meant by defamation here is a true or false statement that causes harm and damage to the reputation of a government, a business, a product, a religion... Such law can be used by the parties in case of a clash and a misrepresentation.

Through their wide reach, influencers may induce the circulation of wrong claims or unethically generate them harming the second party. Or may use their platforms to simply make true statements and criticize a wrong done to raise awareness. The fact that democracy is limited and is subject to interpretation raises a question about the power of an influencer on the society in Lebanon.

3. Conclusion

The platform offered by social media to all whether to support a cause, share valuable information, build an image, interact, grow, stay in touch and be involved is undisputable. Social media in this modern world is as important as any other form of advertisement yet, very few are the countries that give special attention to regulating the rise of influencers marketing. What is important here is that many others are building a whole new legal field that opens the door for a regulated online industry that protects the individual under the rule of law.

One of the many benefits of social media is its globalism, it breaks all boundaries and reaches everyone which means it is subject to various national and international laws. This entitles the users to always consider the existence of different direct and indirect applicable regulations and standards and to always be aware, credible and responsible.