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INFLUENCER MARKETING AND CORPORATE LIABILITY: WHO IS RESPONSIBLE FOR MISLEADING CONSUMERS?

~ *Anshika Jain*

Imagine opening Instagram and spotting sponsored or non-sponsored reels of the influencer always recommending something which you actually need. It is the magic algorithm at work, but the serious issue is that the things recommended, or in actual terms marketed by them, are even genuine or just misleading?

Since the current economy is the economy which is based on the attraction economy, unlike the old times. We see something on social media, and the next moment, we're spending our money to buy it, just by believing the influencer we trust. But who is liable if they are lying or are being paid to lie, the doubt remains the same.

CORE LEGAL FRAMEWORK IN INDIA

Under the Consumer Protection Act, 2019, the Central Consumer Protection Authority (CCPA) has the power to fine the endorsers with ₹50 lakh. The 2023 Guidelines of CCPA require "Ad" or "Sponsored" disclosures that are clear and disclosure does not need to be hidden in bios. This is reinforced by ASCI's 2023 Guidelines, which require three-second video overlays and evidence to support health and financial claims. However, under Section 21, brands cannot escape accountability for any mistakes made by influencers.¹

GLOBAL BENCHMARKS AND LESSONS

In 2022, Kim Kardashian was fined \$1.26 million by the US FTC for the failure to disclose crypto hype. In 2022, the US FTC fined Kim Kardashian \$1.26 million for not disclosing crypto hype. Celebrities are held to account by EU's Unfair Commercial Practices Directive. These

¹LexClaim 2026, *Legal Responsibilities of Social Media Influencers in India*, viewed 9 May 2026, <https://lexclaim.com/blog/2026/01/20/legal-responsibilities-of-social-media-influencers-in-india/>.

are similar to India, but India has yet to have a robust AI deep fake policy like these, as evidenced by the 2023 Rashmika Mandanna probes. The SEBI influencer bans come with teeth on financial advice.

EXPOSING FAULT LINES IS A SERIES OF LANDMARKS THAT REVEAL THE CRACKS IN THE SYSTEM.

In the case of Coronil, Patanjali incurred penalties of ₹11 crore for its COVID claims that were never substantiated, even though the company had endorsed Baba Ramdev. Delhi HC in *Aishwarya Rai Bachchan v Aishwaryaworld* has affirmed that personality rights, including the use of deepfakes, are prohibited. US brands have demonstrated their responsibility for scripted influencer posts in cases such as the Lord & Taylor's 2015 #HaulGate (FTC settlement). As an example, in the Patanjali Coronil case in India in 2021, the false claims about the cures led to a fine of ₹11 crore, with the brand held liable and the endorser being held jointly liable; in the Kardashian Crypto case in the US in 2022, because the brand was not aware of the promotion, it was found that the endorser was held liable for a fine of \$1.26 million imposed by the SEC; in the #HaulGate case in the US in 2015, the FTC issued a warning for failure to disclose, and here the brand was held liable.

CRAFTING A MEDIA BRAND STRATEGY: DISSECTING THE LIABILITY, BRANDS, INFLUENCERS, PLATFORMS

This blog examines the challenges brands, influencers and platforms face in dissecting liability. If they control content, they're hooked: Brands are principals under agency law and liable for the actions of their agents. Indemnity and pre-approval should be part of the contract. As an endorser, influencers are required to fact check and disclose; CPA views them as a trader. Micro-influencers have compliance issues. Platforms have IT Act safe harbor, but have to remove flagged content quickly under 2021 Rules. With the enactment of the DPDP Act, 2023, influencers have become fiduciaries with penalties reaching up to ₹250 crore for infringement. Brands could be liable to repeated fines and recalls, influencers liable to penalties and bans, and platforms could be liable for secondary liability unless they ensure prompt moderation, but all could be protected by taking care with due diligence, audits and disclosures, and keeping evidence logs.

RISK MITIGATION BLUEPRINT

Brands should prominently disclose sponsored content by placing "#Paid" at the beginning of a post to comply with ASCI guidelines. Both brands and influencers must ensure that all promotional claims are supported by credible evidence. Contracts should include mutual indemnity clauses and termination provisions to address potential breaches. Additionally, brands should regularly monitor influencer content using tools such as Brandwatch and conduct legal training workshops to ensure compliance. Nykaa's voluntary compliance with advertising regulations demonstrates the effectiveness of these practices, as the company has not appeared in CCPA notices.²

EMERGING THREATS: AI AND FINFLUENCERS

The Future of Financial Markets and Social Media. Deepfakes exacerbate deception: 2026 proposals call for watermarks. There is no doubt that the recent rules by the Securities and Exchange Board of India (SEBI) 2025 has been a hard hit for "finfluencers" as they have been officially banned from giving unsolicited stock tips. DPDP introduces privacy layers for follower information.

PATH FORWARD FOR ACCOUNTABILITY

India requires a common framework that will integrate the CPA, ASCI, and IT Rules, possibly in the form of a Digital Advertising Authority. Brands: Focus on ethical over viral. Make compliance a part of your brand as an influencer. Consumers: Report through CCPA portal. Openness in partnerships pays off in the long-run.

² Rose, A & Singh, S 2026, 'Influencer Marketing And Corporate Liability In The Digital Age: Regulating Misleading Promotions', INDIAN JOURNAL OF LAW AND LEGAL RESEARCH, (9 May 2026), <https://www.ijllr.com/post/influencer-marketing-and-corporate-liability-in-the-digital-age-regulating-misleading-promotions-an>.