The Indian Journal for Research in Law and Management
Open Access Law Journal – Copyright © 2026
Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

INFLUENCER ACCOUNTABILITY: CAN THE LAW HOLD CONTENT CREATORS LIABLE FOR PROMOTING FAKE PRODUCTS?

Harsimran Kaur

"With great power comes great responsibility." - Uncle Ben

ABSTRACT

"Influence carries more than popularity—it carries responsibility. In the digital marketplace, trust is a currency that must never be traded for deception."

This blog examines the emerging legal responsibility of social-media influencers who promote fake, counterfeit, unsafe, or misleading products to consumers. Influencer marketing has become an important form of digital advertising, but the trust placed in content creators can also facilitate deceptive commercial practices. The blog considers the legal framework governing misleading advertisements, consumer protection, disclosure of paid promotions, and the responsibilities of endorsers. It evaluates the relevance of the Consumer Protection Act, 2019, regulatory guidance on misleading advertisements and endorsements, and self-

regulatory standards for digital advertising. The blog also discusses the difficulties of establishing knowledge, intention, reliance, causation, and the appropriate degree of responsibility of an influencer who is not the manufacturer or seller. It argues that influencers should exercise reasonable due diligence and make clear disclosures where content is sponsored or commercially motivated. A balanced regulatory approach is necessary to protect consumers without imposing unreasonable liability for matters outside an influencer's knowledge or control.

INTRODUCTION

Social media has transformed the way consumers discover products and services. Today, influencers on platforms such as Instagram, YouTube, Facebook, and X (formerly Twitter) play a significant role in shaping consumer preferences. Millions of followers rely on content creators for recommendations on cosmetics, health supplements, fashion, electronics, financial products, and lifestyle services. For businesses, influencer marketing has become one of the most effective advertising tools because consumers often perceive influencers as relatable and trustworthy[1].

However, this growing influence has also given rise to serious legal and ethical concerns. Cases involving misleading endorsements, counterfeit products, undisclosed paid promotions, and exaggerated claims have prompted an important legal question: Can influencers be held legally liable for promoting fake or misleading products?

The answer is increasingly yes. Indian law has evolved to recognize that influencers are not merely entertainers but also participants in commercial advertising. Where they knowingly, negligently, or recklessly promote deceptive products or make misleading representations, they may face legal consequences under consumer protection and advertising laws[2].

THE RISE OF INFLUENCER MARKETING

Influencer marketing has become a multi-billion-dollar industry. Brands collaborate with content creators because their recommendations often appear more authentic than traditional advertisements. Followers frequently purchase products based solely on an influencer's review or endorsement[3].

[1] Department of Consumer Affairs, Government of India, Endorsement Know-Hows! for Celebrities, Influencers and Virtual Influencers on Social Media Platforms (2023).
[2] Evans, N.J., Phua, J., Lim, J., & Jun, H. (2017). Disclosing Instagram Influencer Advertising: The Effects of Disclosure Language on Advertising Recognition, Attitudes, and Behavioral Intent. Journal of Interactive Advertising, 17(2), 138–149.
[3] European Commission, Guidance on the Unfair Commercial Practices Directive.

This relationship creates a unique position of trust. Unlike conventional advertisements, influencer content often resembles personal advice rather than commercial promotion. Consequently, consumers may be less skeptical and more likely to rely on such recommendations[4].

With this growing influence comes an equally significant responsibility to ensure that promotional content is truthful, transparent, and not misleading.

LEGAL FRAMEWORK IN INDIA

India has strengthened consumer protection laws to address misleading advertisements and unfair trade practices.

The Consumer Protection Act, 2019[5] prohibits misleading advertisements and empowers regulatory authorities to take action against manufacturers, advertisers, endorsers, and publishers in appropriate cases. The Act recognizes that endorsements can significantly influence consumer decisions and therefore imposes certain responsibilities upon endorsers.

The Central Consumer Protection Authority (CCPA)[6], established under the Consumer Protection Act, has the power to investigate misleading advertisements, order their discontinuance, impose penalties, and prohibit endorsers from making endorsements for specified periods in suitable cases[7].

In addition, the Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022[8] require endorsers to exercise due diligence before making promotional claims. Influencers are expected to possess reasonable knowledge about the products they endorse rather than blindly repeating marketing material supplied by advertisers.

WHEN CAN AN INFLUENCER BE HELD LIABLE?

An influencer does not become legally liable merely because a product later proves to be defective. Liability generally depends upon the facts and circumstances of each case[9].

---

[4] Boerman, S.C., Willemsen, L.M., & Van Der Aa, E.P. (2017). This Post Is Sponsored: Effects of Sponsorship Disclosure on Persuasion Knowledge and Electronic Word of Mouth in the Context of Facebook. Journal of Interactive Marketing, 38, 82–92.

[5] The Consumer Protection Act, No. 35 of 2019, Acts of Parliament, 2019 (India) - Relevant Sections: Section 2(28) – Misleading Advertisement, Section 2(47) – Unfair Trade Practice and Sections 18–21 – Powers of Central Consumer Protection Authority (CCPA).

[6] The Central Consumer Protection Authority, Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022, Notification F. No. J-25/2/2022-CPU, Ministry of Consumer Affairs, Government of India (9 June 2022).

[7] Central Consumer Protection Authority (CCPA), Government of India.

[8] Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022.

[9] Reckitt Benckiser (India) Ltd. v. Hindustan Unilever Ltd., 2021 SCC OnLine Del 2734.

An influencer may attract legal scrutiny where they[10]:

- Knowingly promote counterfeit or fake products.
- Make false or exaggerated claims without verification.
- Conceal that the content is a paid advertisement.
- Endorse products despite being aware of safety concerns.
- Misrepresent personal experience with a product.
- Continue promoting products after becoming aware that they are fraudulent or unsafe.

The law seeks to distinguish between genuine promotional activities and endorsements that actively mislead consumers.

THE IMPORTANCE OF DUE DILIGENCE

One of the most significant developments under Indian law is the expectation that endorsers exercise due diligence before promoting products.

Due diligence does not require influencers to conduct scientific testing or guarantee product performance. However, it does require reasonable efforts to verify the truthfulness of claims, understand the nature of the product, and avoid making statements that cannot be substantiated[11].

For example, promoting a skincare product as providing "guaranteed permanent results" without any supporting evidence may expose the influencer to regulatory action if the claim is misleading[12].

Similarly, recommending investment opportunities, health supplements, or medical products without proper verification may carry greater legal risks because such products directly affect consumer health or financial well-being[13].

DISCLOSURE OF PAID PARTNERSHIPS

Transparency is a fundamental principle of responsible influencer marketing.

The Advertising Standards Council of India (ASCI)[14] Influencer Advertising Guidelines require influencers to clearly disclose material connections with advertisers. Labels such as #Ad, #Sponsored, or similar

[10] Mathur, A., Narayanan, A., & Chetty, M. (2018). Endorsements on Social Media: An Empirical Study of Affiliate Marketing Disclosures on YouTube and Pinterest.
[11] Horlicks Ltd. v. Heinz India Pvt. Ltd., 2018 SCC OnLine Del 12938.
[12] Pollock & Mulla, Indian Contract and Specific Relief Acts (LexisNexis).
[13] R.K. Bangia, Law of Torts (Allahabad Law Agency).
[14] The Advertising Standards Council of India (ASCI), Guidelines for Influencer Advertising in Digital Media (2021, updated 2022) - Discussing: Paid partnerships, Disclosure obligations, Sponsored content, Fake product promotion and Due diligence.

disclosures should be prominently displayed so that consumers understand the commercial nature of the content.

Failure to disclose paid partnerships may mislead consumers into believing that the recommendation is entirely independent, thereby undermining informed decision-making[15].

Although ASCI is a self-regulatory body rather than a statutory authority, its guidelines have significantly influenced advertising practices in India.

CONSUMER REMEDIES

Consumers who suffer loss due to misleading endorsements may have multiple legal remedies[16].

Depending upon the circumstances, complaints may be filed before the appropriate Consumer Commission under the Consumer Protection Act[17]. Regulatory complaints may also be submitted to the Central Consumer Protection Authority in cases involving misleading advertisements.

Where the conduct amounts to fraud, cheating, or violation of other statutory provisions, additional legal consequences may arise under applicable laws[18].

The availability of multiple remedies reflects the growing recognition that digital advertising should be subject to the same standards of honesty expected from traditional advertising[19].

BALANCING ACCOUNTABILITY AND FREE EXPRESSION

While influencer accountability is essential, legal regulation must also respect freedom of expression and legitimate commercial speech[20].

Not every inaccurate opinion or unsuccessful product recommendation should result in legal liability. Personal opinions honestly expressed, genuine experiences, and good-faith reviews generally differ from knowingly false representations made for commercial gain[21].

---

[15] Gui, H., de Vries, S., Bertaglia, T., & Spanakis, G. (2024). Across Platforms and Languages: Dutch Influencers and Legal Disclosures on Instagram, YouTube and TikTok.
[16] Colgate Palmolive (India) Ltd. v. Hindustan Unilever Ltd., (1999) 7 SCC 1.
[17] The Consumer Protection Act, No. 35 of 2019, Acts of Parliament, 2019 (India) - Relevant Sections: Section 2(28) – Misleading Advertisement, Section 2(47) – Unfair Trade Practice and Sections 18–21 – Powers of Central Consumer Protection Authority (CCPA).
[18] Advertising Standards Council of India (ASCI), Annual Complaints Report.
[19] Avtar Singh, Law of Consumer Protection (Eastern Book Company, latest edition).
[20] Tata Press Ltd. v. Mahanagar Telephone Nigam Ltd., (1995) 5 SCC 139.
[21] Federal Trade Commission, Guides Concerning the Use of Endorsements and Testimonials in Advertising, 16 C.F.R. Part 255.

The law therefore focuses on misleading conduct, deceptive claims, and failure to exercise reasonable care rather than punishing every mistaken recommendation[22].

This balanced approach protects consumers while allowing responsible content creators to continue engaging in legitimate promotional activities.[23]

CONCLUSION

Influencers have become powerful participants in the modern digital economy. Their recommendations influence purchasing decisions, shape public opinion, and often determine the commercial success of products and services. With such influence comes an equally important legal and ethical obligation to act responsibly[24].

Indian consumer protection law increasingly recognizes that misleading endorsements can cause significant financial and emotional harm to consumers. Consequently, influencers who knowingly promote fake products, make false claims, or fail to exercise reasonable due diligence may face regulatory action and legal liability[25].

Ultimately, influencer marketing should be built on transparency, honesty, and accountability. Trust is the foundation of every successful endorsement, and preserving that trust is essential not only for consumer protection but also for the long-term credibility of the influencer industry itself[26].

"Followers may click because of popularity, but they remain because of credibility. In the digital age, accountability is the true measure of influence."

---

[22] Constitution of India, Article 19(1)(a) and Article 19(2).
[23] OECD, Dark Commercial Patterns (2022).
[24] P. K. Majumdar, Law of Consumer Protection in India (Orient Publishing).
[25] Hamdard Dawakhana (Wakf) Lal Kuan v. Union of India, AIR 1960 SC 554.
[26] Ministry of Consumer Affairs, Food & Public Distribution, Government of India, Centre releases endorsement guidelines for celebrities and social media influencers (20 January 2023).