

# The power of influence: Social media risk landscape

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With virtual interaction becoming the norm during lockdown, more brands in more sectors are turning to social media for ways to connect with customers, and the power of influencers is going from strength to strength. From starting out as an effective marketing channel for the beauty, travel and leisure industries, social influencers have been widely embraced during the pandemic by organizations including the World Health Organization <sup>1</sup> enlisting them to spread messages about social distancing and handwashing to younger generations.

While established influencers are helping to share news, advice and information related to Covid-19, new stars are also emerging, particularly in home fitness and health education, with health-specific influencers having a considerable impact on public opinion and behavior. This activity is helping the social influencer market to balloon in size to a predicted \$15bn in 2022. <sup>2</sup> But it also means more people who make their living using social media channels to target followers becoming exposed to the same risks run by the traditional publishing and advertising sectors. Understanding those risks can help influencers to avoid running into problems with their social media content or contracts, protecting their reputations and livelihoods.

## Publishing risks

Surprisingly, many bloggers, vloggers and influencers do not see themselves as publishers, even though they may have a following that dwarfs the circulation of a national newspaper.

Key exposures from publishing occur when individuals are alleged by third parties to have said or written something defamatory resulting in a claim for slander or libel. While anyone who commits defamation on social media can be subject to court action, an influencer faces the added risk of being dumped, abandoned or sued by the brand that pays them. There are other common infringements too, including breach of confidence through the inadvertent publication of private information, and breach of copyright or trademark by posting content or imagery that is owned by someone else.

## Advertising risks

Advertising risks, by contrast, will be more closely focused around issues related to breach of contract – not all of which can be managed through insurance.

Typically, policies are designed to cover an influencer's legal liability, particularly to the brand they are promoting. A brand may bring a claim against the influencer for various reasons, for example, the influencer has promoted a competitor brand against the terms of their contract. Other examples might include the influencer saying something offensive, or confessing to an earlier misdemeanor, and bringing the brand into disrepute.

Whatever the nature of the claim against them, influencers may rapidly find that while the cost of damages may be significant, the cost of defending an action is likely to be even more so, particularly if the case is lost and the defendant is also responsible for a claimant's costs.

## Regulatory risks

The third category of risk that influencers may fall foul of is regulatory and, in the US, the Federal Trade Commission (FTC) takes a firm stance. Back in 2017 the agency issued 90 letters in a single batch reminding influencers and marketers to clearly state when they are being paid and to make clear any "material connection" to the brand. In a more recent statement regarding its settlement

with a firm over “deceptive” health claims and endorsements by influencers to promote its tea products, the FTC cautioned: “Influencers, the law applies to you.” “Companies need to back up health claims with credible science and ensure influencers prominently disclose that they’re getting paid to promote a product,” it again warned in March of this year.<sup>3</sup>

With 75% of six to 17 year-olds claiming they want to become Youtubers and over 50% of Gen Z and Millennials set on creating content on social media to make a living<sup>4</sup>, the market potential is clear. As the value of the influencer industry rises, so too will the scale of the financial and reputational risks. The challenge for influencers, platforms, agencies and the insurance community alike will be to ensure their professional standards can keep at the same rapid pace in order to enable the success of this exciting sector.

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<sup>1</sup> <https://www.mobilemarketer.com/news/who-enlists-virtual-influencer-for-covid-19-prevention-campaign/575493/>

<sup>2</sup> <https://www.businessinsider.com/influencer-marketing-report?r=US&IR=T>

<sup>3</sup> <https://www.ftc.gov/news-events/blogs/business-blog/2020/03/ftcs-teami-case-spilling-tea-about-influencers-advertisers>

<sup>4</sup> <https://mediakix.com/blog/percent-children-becoming-a-youtuber/>