

Avoiding Metaverse Mayhem: Regulating Virtual Influencers as Nearly Human

In recent months, the metaverse has become an increasingly popular buzzword. Companies are building metaverse platforms and exploring unique ways of engaging consumers within these new digital landscapes. Influencer marketing likely will remain an important tactic to grow engagement within the metaverse.

An important precursor to full immersion in this space is the gradual rise of virtual influencers—lifelike personas that CGI artists, digital agencies (and sometimes even artificial intelligence) create and manage. The most well-known example is [Li'l Miquela](#), though there are [several others](#).

Some brands are embracing virtual influencers. They can command as strong a following as actual human influencers, while presenting much lower risk and expense. After all, virtual influencers do not need to be flown across the country, put in hotels, fed meals or given per diems.

However, brands and agencies still must be cautious. They should understand legal issues that arise during both human-driven and virtual influencer campaigns in the metaverse.

Morals Clauses

In addition to sponsored posts, virtual influencers frequently create organic social content for themselves. As such, some have established more risqué personas than others. As with human influencers, companies considering working with virtual influencers should carefully vet their prior social media activity. In addition, companies should check the virtual influencer's previous endorsements, ensuring there is no image-tarnishing material.

In addition, while it is easier to manage a virtual influencer's behavior than a human's, it is still a good idea to include a morals clause within contracts for virtual influencers. This allows the company to terminate if the virtual influencer engages in unexpected behavior that might cause reputation damage.

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Social Engagement

As brands venture deeper into the metaverse, the prevalence of virtual influencers likely will increase. Some brands may create dedicated virtual influencers. When considering this strategy, communication professionals must consider how virtual influencers will organically accumulate sufficient followers to meaningfully benefit the brand.

Certain companies purport [to sell 'followers'](#) to social media accounts. However, be warned that the Federal Trade Commission (FTC) and multiple state regulators have shuttered much of this activity in recent years.

For example, in a high-profile case against Devumi, LLC, [regulators stopped](#) the company from creating thousands of fake accounts and selling them to influencers. The influencers used them to fraudulently inflate their followers, view counts and other engagement metrics.

Disclosures

The driving force behind all influencer marketing regulation is the principle that influencers must disclose when they have a material connection with brands they promote. For instance, influencers are required to disclose this information through clear and understandable disclosures—such as #ad or #sponsored. Effective disclosures will continue to be a defining requirement for influencers, human or virtual, who create content on behalf of brands within metaverse platforms.

Transparency

Brands also must consider transparency with respect to disclosing that the influencer is not a real person. For years, Li'l Miquela posted as a real person.

Today, it is common for virtual influencers to prominently identify themselves as being robots or otherwise artificial creations. The FTC has not issued guidance on this issue, but it seems a good bet that regulators would expect virtual influencers to disclose that they are not real people. Such information could sway consumers' perceptions or conclusions about the influencer's endorsements.

Since a robot cannot taste, how reliable is its opinion about the taste of Brand X's new snack product? Wouldn't such a post be deceptive? For this reason, it is recommended that virtual influencers disclose not only their material connection with a brand, but also that they are not real people.

Bottom Line

Until new influencer marketing regulations emerge that focus specifically on the metaverse, brands must continue to be cognizant of and apply present-day marketing regulations to the metaverse.