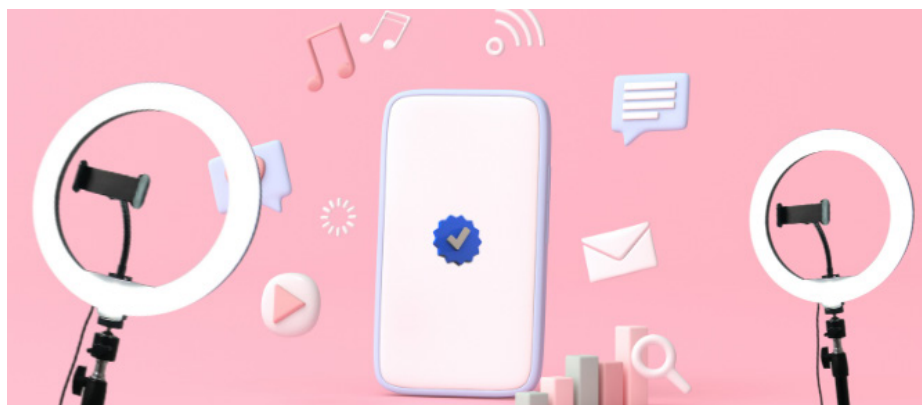


Influencing the Best Outcome with Influencers

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Influencer marketing has surged in popularity in recent years — remarkably at the very same time leading commentators from the [New York Times](https://www.nytimes.com) and elsewhere have reported on the decline of the news media and its troubling future. Even non-celebrity endorsers offer enormous power over people in a world where regular social media users are comprised of a younger and more impressionable demographic. Social media is now where most young people consume their “news”. It is thus critical for brands and their agencies to have robust practices in place to distinguish marketing content from editorial content. Marketers also must ensure that consumers understand the material connections between endorsers and brands.

Influencer marketing has drawn increased attention not only from brands, but also from the Federal Trade Commission. Because of this, public relations and marketing communications firms need to follow six key rules to work most effectively with influencers. These are listed below:

- 1. Select the Right Influencers.** The process for selecting influencers should include a thorough evaluation of both celebrity and micro-influencers to ensure alignment with the brand’s values and to uncover any potentially questionable behavior or statements from the past. Before finalizing the partnership, agencies should analyze the influencer’s past content, audience demographics, engagement rates, and any potential controversies to assess their suitability for representing the brand effectively. For example, a PR firm, before engaging an influencer for a wellness campaign, should analyze the influencer’s previous health-related content, audience engagement on topics, and any potential conflicts of interest to ensure credibility. An influencer agreement may have the most robust morals clause in the world — but PR fallout is PR fallout, no matter what contractual recourse you have once it happens.

2. **Update Your Influencer Agreement.** The right form of contract is vital to align expectations and responsibilities between brands and influencers. The contracts should include specific objectives, key performance indicators (KPIs), and clauses on ownership, usage rights, and exclusivity to prevent misunderstandings and enhance accountability. All agreements should require influencers to comply with their obligations under the Federal Trade Commission's disclosure guidelines. In addition, contracts should also drill down into specifics. Influencers must reflect their actual experience with the product or service and adhere to FTC guidelines regarding all content, whether that content is specifically contracted for under the agreement or not. The agreement must also clearly outline expectations regarding whitelisting, boosting, posting frequency, review and approval timelines, morals, and monitoring and termination rights.
3. **Simplify Influencer Policies.** It is one thing to have a strong contract in place, but most up-and-coming influencers are not represented by agents and may not have a good understanding of "legalese." It is therefore vital to have influencer policies written in plain English so that influencers fully comprehend their responsibilities within the partnership. A PR firm's standard influencer policy should also specify expectations for the posting of third-party content (e.g., influencers must not post unlicensed music on platforms such as TikTok), confidentiality, and permitted marketing activities. Firms should revisit their influencer social media policies periodically to ensure they are sufficiently clear and up to date. The FTC has issued some helpful resources directed to influencers that you can provide to them alongside their policies and contracts. This useful [FTC brochure](#) provides tips for making adequate disclosures.
4. **Balance Creative Freedom with Brand Guidelines.** Marketers and their firms showed established policies that allow influencers the creative freedom to express themselves authentically while still adhering to brand guidelines to maintain consistency, accuracy, and brand identity. A PR firm should consider providing influencers with creative briefs outlining key messaging points while allowing them flexibility in content creation to showcase products or services in a way that resonates with their audience and boosts impressions authentically.
5. **Prioritize Transparency.** Prioritizing transparency not only helps you to build trust with the influencer — and the influencer and the brand to build trust with their audience — but it also inspires confidence in the agency relationship from the brands that your firm represents. Prioritizing transparency also reduces legal risk. The FTC is increasing enforcement to hold pr and marketing firms accountable for influencers' non-disclosure of material connections or dissemination of unsupported claims. Because of this, every PR firm contracting with influencers should know what the FTC Updated Endorsement Guide mean to both their agreements and their practices. If firm has not already received a deep dive through the updates, now is the time to pay attention to the FTC's key disclosure and transparency principles. These are listed below:
 - Remember that an endorser is not only an individual, group or institution, but also any entity that *appears to be one*, such as a virtual influencer. By extension, the FTC has also suggested that if AI tools have been used to create an influencer avatar or influencer content, then that fact should be disclosed to the consumer.
 - Marketing or promotional messages, such as mere tags in social media posts, can qualify as endorsements that require an accompanying disclosure.
 - "Clear and conspicuous" now means "unmissable." The FTC in a departure from previous industry practice, has stated that if an endorsement is made in visual and audible media, the disclosure should be made in both visual and audio. Keep this in mind so that you and your firm is not scrambling to revise an influencer's verbal statements in post-production.

- Add the brand name to the influencer’s disclosure. The FTC has opined that disclosures such as “sponsored by brand” or “promotion by brand” are likely more effective to communicate the paid relationship than just placing “sponsored” or “promotion” at the beginning of a post. This principle applies to sweepstakes and contest hashtags as well — for example, a consumer posting about a brand in the expectation of a sweepstakes entry should include a hashtag such as #Brand_Sweepstakes, in their post, rather than just #sweepstakes.
- Don’t rely on built-in social media platform disclosure tools. In the FTC’s own words, “*the big-picture point is that the ultimate responsibility for clearly and conspicuously disclosing a material connection rests with the influencers and the brand — not the platform.*” As a best practice, superimpose disclosures on platforms such as TikTok and Instagram Stories. The FTC has stated that “*when content creators want viewers to read something, they superimpose much larger text over their videos.*”; and finally,
- Remember your audience. Disclosures that work for an adult audience may not work for children or teens. Conversely, disclosures that work for young people may not be effective when marketing to the elderly. As a PR and communications professional, understanding your audience is your area of expertise.

6. Implement Monitoring and Termination Protocols. Establish a written and robust monitoring mechanism to track influencer activities and have clear processes in place for terminating partnerships if necessary. Remember that the FTC has said that brands, agencies, and others involved in the marketing process can be held liable if an influencer makes a deceptive endorsement or fails to disclose material connections. Utilizing social listening tools can help agencies monitor influencer content in real-time, enabling proactive intervention if posts deviate from agreed-upon guidelines or fail to meet disclosure requirements. Although being able to demonstrate that the marketers and its firm have provided effective clear guidance to influencers is not a “get out of jail free” card; it may reduce the risk of FTC endorsement actions.

The dynamic landscape of influencer marketing requires PR and marketing firms to adopt proactive measures that prioritize transparency, authenticity, and compliance with regulatory standards. By implementing these best practices and closely tracking influencer activities, firms can forge successful partnerships with influencers while also safeguarding their clients’ interests and reputation in an ever-evolving digital world.