

# Influencer Marketing: Best Practices for Advertisers & Agencies

Advertisers and agencies must ensure that influencer disclosures are “clear and conspicuous.” Below is a best practices checklist for disclosures:

- Use **clear, plain and unambiguous language** so that consumers understand the disclosure.
- Place the disclosure at the **beginning of the post** (or “above the fold”) and as close as possible to the ads to which it relates.
- Ensure that the size, color and graphic treatment of the disclosure are **easy to read** in relation to the other parts of the post.
- Ensure that the disclosure is **clear and visible on all devices**, including mobile.
- Ensure that the disclosure is **appropriate for the platform and complies with any applicable terms of use**. For character-restricted platforms (such as Twitter), a hashtag such as #ad or #sponsored may be appropriate. For video platforms (such as YouTube), the disclosure needs to remain on screen long enough to be noticed and read (in other words, a disclosure in the description box alone is not enough).
- **Repeat disclosure as necessary** on lengthy websites and/or in connection with repeated claims.
- Ensure that the **disclosure remains intact** when ads are republished or reposted.

The FTC holds advertisers responsible for ensuring that influencers comply with the FTC’s guidelines. While the FTC has not yet held agencies or influencers themselves directly responsible for compliance, agencies and influencers may be held contractually liable through indemnification or other provisions vis-à-vis the advertiser. As such, advertisers and agencies are highly encouraged to take appropriate steps to ensure that the influencers engaged by them or on their behalf are in compliance. Below is a best practices checklist for what advertisers and agencies should do with respect to the influencers they engage:

- **Adopt a written social media policy** for all influencers they engage with.
- Train, instruct and **contractually require influencers to make proper disclosures** regarding their relationship to the advertiser and/or its products.
- **Monitor influencers** to ensure they are making the proper disclosures, both before, during and after posting.
- Terminate influencers who fail to make the proper disclosures and/or **require them to take down or edit** the applicable posts.



For further information and assistance, including with respect to drafting social media policies and/or influencer agreements, contact:

**Lindsay Gehman, Business Partner**  
415 772 5744  
lgehman@coblentzlaw.com  
www.coblentzlaw.com