

Influencer Marketing Partnerships Face Rising Litigation Risk

By **Andrew Lustigman and Morgan Spina** (July 25, 2025, 5:46 PM EDT)

As the use of influencer marketing has grown, so too has the legal scrutiny surrounding these practices. Lawsuits in 2025 are focused on scenarios where influencers and brands have failed to meet current legal disclosure requirements.

As the business community watches these cases in their early stages, companies must keep an eye out for how influencer partnerships could create litigation risks as social media marketing matures, and implement robust compliance measures.

It's no secret that social media marketing has become central to the marketing strategy of many brands, particularly those operating in the e-commerce space.

Social media advertising is now a multibillion-dollar industry, with brands continuing to rely heavily on online personalities — or influencers — with varying follower counts and degrees of influence to promote products in ways designed to appear authentic, relatable and organic.

The legal foundation for influencer marketing compliance in the U.S. is established by the Federal Trade Commission. In 2023, the FTC finalized its updated guides concerning the use of endorsements and testimonials in advertising.[1]

To supplement the endorsement guides and answer any questions not directly addressed in the endorsement guides, the FTC also published a FAQ resource titled "FTC's Endorsement Guides: What People Are Asking." [2]

In the FAQs, the FTC clarifies that the endorsement guides apply to advertising across all forms of media, ranging from traditional mediums like television and magazine to more contemporary mediums, including social media.

When there is a connection between the seller of an advertised product and an individual who endorses a product that could materially influence the credibility or weight of the endorsement, the endorsement guides state if such a connection is not reasonably expected by consumers, then such material connection must be clearly and conspicuously disclosed to the consumer.

To this end, the FAQs clarify that in the context of social media, although it may be common knowledge and reasonably expected by consumers that some influencers are paid to promote certain products,



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there are cases where online personalities may have no connection to brands that they mention or promote.

The FTC goes on to state that this act or practice can be deemed as deceptive when it misleads a significant minority of consumers.[3]

As such, although at this point in the development and pervasiveness of social media marketing many consumers and social media users are likely aware that influencers are often compensated for promoting products on their platforms, this assumption is not universal and therefore disclosure of any material connection between an influencer and a brand remains a critical requirement, regardless of how familiar influencer marketing may seem to today's digital audience.

Historically, enforcement actions for disclosure failures have come primarily from the FTC, which has issued numerous warning letters to influencers and brands reminding them of their obligations under the endorsement guides.

In addition to FTC enforcement, the self-regulatory body, the National Advertising Division of the Council of the Better Business Bureaus has frequently targeted marketers that have failed to disclose a material connection between the brand and the influencer.

Recent cases include actions against the actor and comedian Kevin Hart based on his promotion of JP Morgan Chase and Fabletics.[4] This NAD matter focused on whether Hart's social media posts adequately disclosed his material connection to the brands when promoting the brands' products.

During this inquiry, Hart argued that his followers would likely be aware that he was connected to these brands due to his long-standing and public endorsements, and as such an affirmative disclosure would not be warranted.[5]

NAD found, however, that when it stepped into the shoes of a reasonable consumer, a significant minority of Hart's audience may not be aware of his affiliation with Fabletics, and as such recommended clear and conspicuous disclosure of the material connection.[6] While NAD decisions do not have penalties associated with them, they can lead to follow-on class actions.

While the endorsement guides themselves are not law and do not afford a private right of action, a notable recent development is the rise of class actions brought by private plaintiffs targeting both influencers and the brands that engage them based on the disclosure obligations mandated under the guides.

Over the past several months, class actions have been filed against Revolve Group Inc.,[7] Celsius Holdings Inc.,[8] Beach Bunny Swimwear Inc.,[9] Roadget Business Private Ltd.,[10] and Color Image Apparel d/b/a Alo Yoga[11] in federal courts in California and Illinois.

Notably, these lawsuits name not only the brands but also specific influencers as defendants. Of further note, the Revolve lawsuit is a follow-on from a prior NAD decision earlier this year in which the brand failed to require its influencers to disclose the nature of their connection to the brand.

Many of the complaints share common language and allegations. The central theory of these lawsuits is that the brands and influencers mislead consumers by creating the impression that influencer

endorsements were organic and unpaid, while concealing material connections that could influence purchasing decisions.

The plaintiffs allege that the brands and the influencers they worked with deceived customers into paying a premium for their products by implying that the influencers were touting the brands' products without being paid or otherwise incentivized to do so, when that was not the case.

The lawsuits are largely premised on the endorsement guides. For example, in the complaint against Revolve, the plaintiffs assert even when the influencers post a disclosure, like #ad, they are doing it "at the end of the post, where the user need to press 'more' to see it, are hiding a partnership tag in between many other hashtags," and they "run it together with other hashtags." These notions of what constitutes an appropriate hashtag are taken directly from the endorsement guides.

The lawsuits cite alleged violations of various consumer protection statutes, including the Florida Deceptive and Unfair Trade Practices Act, the California Consumers Legal Remedies Act and the California Unfair Competition Law, among others. Claims for unjust enrichment and negligent misrepresentation are also asserted.

While these class actions are still in their infancy, with several defendants having already filed motions to dismiss, including Revolve and SHEIN, they could reflect a growing trend of legal challenges targeting influencer marketing practices. As the industry continues to evolve and public awareness of paid social media endorsements develops, both brands and influencers face increasing legal risk from both regulators and private plaintiffs.

As these cases continue to develop, companies and influencers active in this space should implement compliance measures to ensure their current marketing practices align with the FTC's endorsement guides.

Influencers must use clear and prominent material connection disclosures. Copycat cases are likely if these class actions decide in favor of plaintiffs, so brands are highly advised to be proactive with their compliance measures to safeguard their marketing and business development initiatives.

Compliance measures can include:

- Placing clear, easy-to-understand, visible disclosures above the "See More" sections of social media posts and captions;
- Adding wording such as "#Ad," "Sponsored by [Brand Name]," or "Promotion by [Brand Name]" in many instances clearly indicating the relationship between the influencer and the company;
- Inserting disclosures, depending on the content type, at key points in the content — this can include verbal disclaimers and on-screen overlays for video content and verbal disclaimers at the beginning and end of audio content such as podcasts;
- Outlining the relevant disclosures in influencer contracts and briefs for all content formats used;
- Requiring disclosure and compliance training for marketing teams and influencers, with updates as FTC disclosure guidelines, local laws and other consumer protection regulations evolve;

- Creating project management workflows to add in disclosure reviews before posts or other content goes live;
- Creating a monitoring process to ensure influencer compliance with disclosure requirements; and
- Not using or engaging with fake reviews, fake followers or AI-generated false content.

When armed with strategic guidance and efficient resources, all sides can adapt to government regulations more smoothly and swiftly. This helps brands and influencers maintain a competitive edge where their reputations and marketing initiatives are safeguarded.

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[1] FTC, "FTC Guides Concerning the Use of Endorsements and Testimonials" available at <https://www.ecfr.gov/current/title-16/chapter-I/subchapter-B/part-255>.

[2] FTC, "The FTC Endorsement Guides: What People Are Asking" available at <https://www.ftc.gov/business-guidance/resources/ftcs-endorsement-guides-what-people-are-asking>.

[3] Id.

[4] Kevin Hart (Kevin Hart, Influencer) Report #7373, NAD/CARU Case Reports (February 10, 2025).

[5] Id.

[6] Id.

[7] *Negreanu v. Revolve Group Inc. et al.*, Case No. 2:25-cv-03186 (C.D. Cal., Apr. 11, 2025).

[8] *Dubreu v. Celsius Holdings Inc. et al.*, Case No. 5:25-cv-00180 (C.D. Cal., Jan. 22, 2025).

[9] *Alin Pop v. Beach Bunny Swimwear, Inc. et al.*, Case No. 2:25-cv-04085 (C.D. Cal., May 7, 2025).

[10] *Bengoechea et al. v. Shein et al.*, Case No. 1:25-cv-01402 (N.D. Ill., Feb. 10, 2025).

[11] *Sulici et al. v. Color Image Apparel d/b/a Alo Yoga et al.*, Case No. 1:25-cv-03928 (N.D. Ill., Apr. 11, 2025).