India Issues Guidelines for Digital Media Ads of Influencers

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The Advertising Standards Council of India (ASCI) came out with guidelines for influencers advertising on digital media in February, which came into effect on 15 April. The intention is to differentiate between content-based videos and promotional videos made by the influencers for commercial gain.

Key Definitions

1. Anyone who has a position or authority to influence the purchasing decisions or opinions of an audience is an influencer.
2. Any form of communication that cannot be recognised as an advertisement, but is authorised and owned by the advertiser or brand, will qualify as an advertisement.
3. Any form of benefit from the advertiser or brand to an influencer – such as free products, monetary compensation, trips and hotel stays – that affects the credibility of the video would qualify as a material connection between the two.
4. The internet, on-demand platforms, mobile broadcast, digital TV, and other similar platforms where an influencer can reach out to the public all qualify as digital media.
5. Management or its agents that own any means of the propagation of advertisements qualify as media owners.

Disclosure Labels

To ensure that an average consumer can identify that a video is an advertisement, the guidelines demand that the influencer provides a categorical disclosure in the description post, using labels such as #ad, #collab, #promo, #sponsored, and #partnership. Such disclosure labels will act as an identifier for consumers that the piece viewed by the consumer is actually a sponsored advertisement.

It is imperative to mention here that no other label is allowed to be used, as the consumer may not be

familiar with other short forms or words that can define an advertisement. The onus to put out disclosure labels are:

If the advertisement is directly uploaded by the influencer, the onus is on the publishing account, i.e., the influencer who is publishing the video;

In case an advertiser uses a virtual influencer and posts the video directly through its own account, the onus shifts onto the advertiser.

Dos and Don'ts

Disclosures must be made upfront, i.e., within the first two lines of the content, for the consumers to easily identify the video as an advertisement, without having to scroll or unfold the post, and must be in English, or translated into the language of the advertisement.

The guidelines do not recognise a blanket disclosure in the "bio" of the influencer as a qualified disclosure. Therefore, the labels must form part of every post. If the advertisement is a picture or image on social media platforms, the disclosure labels must be superimposed clearly on that image.

In certain cases, where the video is not accompanied by a post or written description, the disclosure labels must be superimposed on the video. Similar to the disclaimer requirement in a television advertisement, the guidelines have a specified duration for the labels to appear in the videos:

1. For a video of 15 seconds or less, the label must be displayed for a minimum of two seconds;
2. For a video running for more than 15 seconds but less than two minutes, the label must be displayed for one-third of the length of the video;
3. For a video of more than two minutes, the label must be displayed for the entire duration; and
4. In cases of a live-stream video, the label must periodically appear, after every minute, for durations of five seconds.

If the influencer's post only comprises audio, the disclosure must be announced at the beginning and at the end of the audio clip.

The guidelines prohibit the use of filters to enhance the quality of skin, hair, teeth, etc. while making a promotional video for any brand.

Similar to the obligation of celebrities under the ASCI code, the guidelines mandate influencers to do their due diligence on any performance or technical claims made in the advertisement. The guidelines further require that any document exchange between the advertiser and the influencer must be in place to show that the due diligence was done.

Finally, the guidelines require the advertiser and the influencer to enter into an agreement, which must carry clauses pertaining to disclosure, non-use of filters and due diligence.

Conclusion

In today's era of social media where influencers shape consumer choices, these guidelines will create responsible advertising and protect consumers from being hoodwinked into believing a paid advertisement is an influencer's fondness.

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