

Department of Business and Management

Master's Degree in Marketing

Chair of Legal Issues in Marketing

***Influencer Marketing: The Liability between Influencer and
Enterprise***

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INTRODUCTION

Influencer marketing has established itself over the last decade as a cross-cutting social, economic, and communicative phenomenon. Initially emerging spontaneously on social media platforms, this approach has seen ordinary people transform themselves into influential online figures capable of shaping public tastes and behaviors. What began as an amateur pastime has rapidly evolved into an essential and increasingly regulated industry¹. It is no coincidence that influencer marketing, which originated as a social phenomenon, has now become a real economic sector: according to recent estimates, the global market for this sector will exceed \$30 billion by 2025. Influencers are no longer just independent “creators”; many of them are now digital entrepreneurs in their own right, capable of influencing consumption, trends, and public opinion through their online presence². Their virtual proximity to the public allows these new communication protagonists to shape cultural and market trends, redefining the dynamics between companies and consumers in a participatory media context. In social media, influencers’ content has often blurred the line between entertainment and advertising, sometimes making it difficult for users to distinguish between spontaneous advice and sponsored messages³. This intertwining of the personal and promotional spheres is one of the hallmarks of influencer marketing as a contemporary communication phenomenon.

At the same time, we are witnessing a growing professionalization of the role of influencers, who have become strategic players in companies’ commercial communication strategies. In just a few years, the role of influencer has gone from being an amateur hobby to a full-time profession, with the emergence of specialized agencies, dedicated contracts, and trade associations to protect creators. In Italy, for example, since January 1, 2025, influencer marketing has been formally recognized with the introduction of a specific ATECO code, a sign of institutional recognition of the economic and social value of this rapidly growing profession⁴. Many influencers now cultivate their image as a true personal brand: through personal branding strategies, they build a recognizable and credible identity, intertwining elements of their daily lives with the promotion of products or services, so as to actively influence the attitudes and

¹Stamatos, S. G. (2025). *Get ready with me: Unveiling the regulatory realities of influencer marketing*. *Boston College Law Review*, 66(1), 253–293. <https://doi.org/10.70167/FHLY8627>

² Marchionni, C. (2024, dicembre 2). *Partita Iva Influencer: il riconoscimento ufficiale della professione*. <https://avvocatomarchionni.it/partita-iva-influencer/>

³Stamatos, S. G. (2025). *Get ready with me: Unveiling the regulatory realities of influencer marketing*. *Boston College Law Review*, 66(1), 253–293. <https://doi.org/10.70167/FHLY8627>

⁴ Marchionni, C. (2024, dicembre 2). *Partita Iva Influencer: il riconoscimento ufficiale della professione*. <https://avvocatomarchionni.it/partita-iva-influencer/>

choices of their followers. This means that the influencer themselves becomes a brand, with distinctive values, style, and voice, whose reputation is decisive in the relationship of trust established with the public.

In collaborations between brands and influencers, the influencer acts as a brand ambassador: their task is to create and share sponsored content that conveys the brand's image and messages in an authentic way that is consistent with their own communication style. Through personal storytelling, posts, videos, and hashtags, the influencer integrates the company's products or services into their daily narrative, giving them visibility and appeal among their community of followers. From a marketing perspective, this approach has proven effective in increasing engagement and purchase intent: influencers, acting as independent endorsers, transfer part of their credibility and influence to the sponsored brand⁵. Companies now consider influencers to be key partners in reaching specific audiences in a targeted and relatable way. The strategic leverage provided by influencers lies in the combination of reach (large digital audiences) and trust (perceived trust): characteristics that make them privileged intermediaries in today's advertising communication.

However, the tumultuous rise of influencer marketing has highlighted new ethical and regulatory challenges. The intertwining of personal life and commercial promotion, while constituting the strength of this tool, also raises concerns about transparency and consumer protection. In the absence of clear rules, opaque or potentially misleading practices have multiplied, undeclared sponsorships, testimonials promoting products without disclosing links to the brand, and biased reviews, phenomena that escape scrutiny and risk eroding public trust⁶. Product placement and hidden advertising on social media have become the focus of attention from authorities and observers, as they may constitute unfair commercial practices. Until recently, influencers' promotional activities largely operated in a regulatory gray area, with poorly defined responsibilities and transparency standards left to the goodwill of individuals⁷. This lack of protection has made the need for ad hoc regulation increasingly urgent, to comprehensively govern the relationships between influencers, brands, and audiences, ensuring

⁵ Joshi, Y., Lim, W. M., Jagani, K., & Kumar, S. (2023). Social media influencer marketing: foundations, trends, and ways forward. *Electronic Commerce Research*, 25, 1199–1253. <https://doi.org/10.1007/s10660-023-09719-z>.

⁶ Stamatou, S. G. (2025). *Get ready with me: Unveiling the regulatory realities of influencer marketing*. *Boston College Law Review*, 66(1), 253–293. <https://doi.org/10.70167/FHLY8627>

⁷ Vercellotti, A. (2025). Influencer marketing a norma di legge – Dopo l'entrata in vigore delle linee guida AGCOM. *Legal For Digital Blog* <https://legalfordigital.it/azienda/influencer-marketing-a-norma-di-legge/>

fair trading and protection for end users (who are often minors or particularly impressionable individuals).

In recent years, legislators and regulatory authorities have been taking progressive action to fill these gaps and establish clearer rules for influencer marketing. In Italy, the Communications Regulatory Authority (AGCOM) approved new guidelines and a code of conduct for influencers in early 2024, supplementing existing advertising law provisions with specific rules for the digital sphere. These rules, also adopted in implementation of EU Directive 2018/1808 on audiovisual media services, aim to ensure transparency in online commercial communications and greater protection for consumers, particularly minors. Specifically, the AGCOM guidelines impose precise transparency requirements for the identification of sponsored content (e.g., the clearly visible use of labels such as #advertisement or #adv in posts) and assign clear obligations to both influencers and companies regarding compliance with the rules. Shared responsibility is established: influencers must take a scrupulous approach to reporting the promotional nature of their content, and brands, for their part, are required to ensure that their partners comply with these obligations, under penalty of sanctions. Violations can result in substantial penalties: for lack of advertising transparency, AGCOM imposes fines ranging from €10,000 to €250,000, demonstrating the importance attached to clarity and honesty in informing the public. The introduction of these rules represents a significant step in the regulation of influencer marketing in Italy, creating for the first time a precise regulatory framework for the promotional activities of digital creators.

Looking ahead, it is hoped that these protections will also be extended to profiles with smaller followings, so that the entire ecosystem, macro and micro-influencers, is subject to uniform standards of transparency and fairness⁸.

The issue is also the focus of attention at the international level. In the United States, the Federal Trade Commission (FTC), the federal agency for consumer protection, has long issued guidelines for advertising endorsements on social media. Back in 2017, the FTC issued its first recommendations to influencers on how to make sponsored posts clearly visible (e.g., by not hiding the #ad at the bottom of the description) and sent warning letters to dozens of web celebrities involved in possible cases of hidden advertising. In 2023, the FTC further updated its Endorsement Guides to combat emerging deceptive practices in the digital landscape. The

⁸ Vercellotti, A. (2025). Influencer marketing a norma di legge – Dopo l'entrata in vigore delle linee guida AGCOM. Legal For Digital Blog <https://legalfordigital.it/azienda/influencer-marketing-a-norma-di-legge/>

revised guidelines reiterate that advertising through reviews or endorsements must be truthful and transparent, providing clarification on what constitutes a “clear and conspicuous” disclosure and warning that reporting tools built into platforms (such as Instagram's automatic labels) may not be sufficient if they are not clearly visible. It also makes clear that any “material connection” between the endorser and the brand (whether it be financial compensation, a product gift, an employment relationship, or other benefit) must be communicated unequivocally to viewers.

A central aspect of the new guidelines is the emphasis on shared responsibility: not only advertising companies, but also influencers themselves and intermediaries (e.g., agencies) can be held legally liable if they fail to adequately disclose such commercial ties⁹.

In other words, US law frames influencers as active participants in advertising communication, required to comply with obligations similar to those of any professional spokesperson or advertiser, under penalty of sanctions for deceptive practices.

In conclusion, influencer marketing today represents a frontier territory in which society, economics, and law interact dynamically. The figure of the influencer, understood as a personal brand as well as a promotional vehicle, challenges traditional marketing paradigms and requires multidisciplinary reflection on the rules of the game. The absence, until recently, of a solid regulatory framework has required urgent corrective measures to protect consumers and balance the relationship between creators and brands. This introduction has outlined the evolution of the phenomenon and the growing regulatory attention: this thesis will explore, in particular, the role of the influencer as a brand and the legal implications of commercial collaborations in the digital ecosystem. Both theoretical perspectives and concrete references (such as the AGCOM guidelines and the FTC Endorsement Guides) will be examined in order to highlight the current challenges and possible regulatory solutions for ethical, transparent, and sustainable influencer marketing.

⁹ FTC – Federal Trade Commission (2023). Revised Endorsement Guides to Combat Deceptive Reviews and Endorsements.

Chapter 1

Influencer Marketing

1.1 Definition and evolution of influencer marketing

Influencer marketing is a marketing strategy based on the involvement of “influencers,” i.e., people who are able to influence a significant audience with their behavior. Influencers are not necessarily famous people; in fact, they can be ordinary people who, by sharing their content, are able to influence the way a community thinks and acts, for which they represent a point of reference. Companies are interested in promoting their brands, products, or services through influencers because this allows them to reach their target audience in a targeted and engaging way, achieving results in terms of brand awareness, i.e., increasing the level of knowledge of their brand, or even sales growth.

According to *Influencer Marketing Hub*¹⁰, influencer marketing encompasses a mix of traditional and new marketing tools, as it takes a traditional idea such as promoting a product through a celebrity and transplants it into the digital world, where content-driven marketing campaigns prevail, i.e., campaigns focused on the value of content capable of establishing lasting relationships with current and potential customers. In this new context, the ability to build relationships with one’s audience does not necessarily require celebrity status, but rather a loyal, high-quality community with which a relationship of trust has been established.¹¹

Influencer marketing can therefore be defined as an activity that aims to engage and utilize the qualities of individuals with strong influence and reputation, i.e., influencers, for corporate communication purposes. Influencer marketing (IM) is defined as a form of online marketing based on collaboration between a brand and an influencer, i.e., an influential figure on social media, with the aim of promoting a particular product or service to a wider and more targeted audience. In exchange for monetary compensation, free products, or other forms of remuneration, influencers offer companies visibility on social networks.

Unlike what happened with testimonials, influencers establish a collaborative relationship with companies in the creation of campaigns, making available to them not only their audience but also their creativity, their tone of voice, and their unique way of interacting with their fanbase.

¹⁰ Influencer Marketing Hub is one of the big influencer marketing consulting companies globally.

¹¹ Biondini, D., & Lomaglio, B. (2023). *Influencer marketing: tra diritto e pratiche*. Milano: Giuffrè Francis Lefebvre.

In the digital world, word of mouth is amplified by the potential of platforms, which not only allow but also encourage, through practices such as reactions (e.g., likes), comments, and shares, the rapid and viral spread of content. Influencers, with their ability to attract attention and engage a loyal audience with easily identifiable characteristics, represent the ideal nodes of a network capable of propagating any type of message with surprising speed.¹²

Assoinfluencer emphasizes that being an influencer should be considered a profession in every sense of the word, rather than a hobby: “An influencer is many things [...] they can be an artist, an entrepreneur, a cyber athlete, a science communicator. In any case, they are professionals who, thanks to their numbers, produce value (in terms of visibility), and that value must be brought to the attention and recognized by institutions and fairly remunerated by the market.”¹³

To understand the global scale of the phenomenon, it is useful to refer to the value of the sector (in terms of market size) at a global level. The chart below shows that the influencer marketing market is expected to reach an estimated value of approximately \$30.81 billion in 2023, with significant year-on-year growth.¹⁴

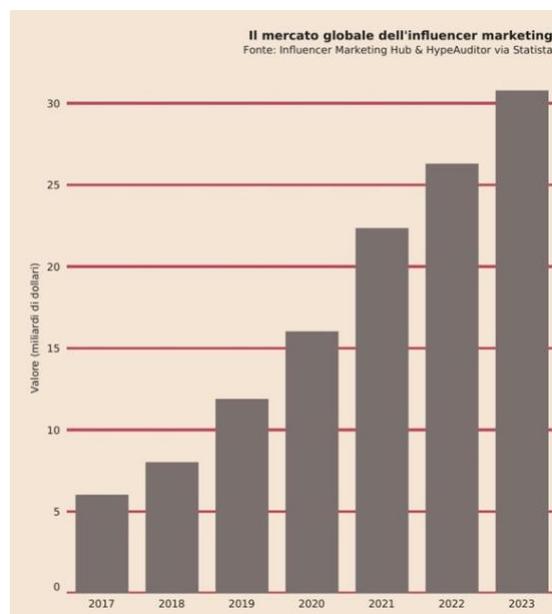


Figure 1: Size of influencer marketing market (Source: Statista)

According to data published by Influencer Marketing Hub, the global influencer marketing market has grown from \$1.7 billion in 2016 to \$21.1 billion in 2023.

¹² Biondini, D., & Lomaglio, B. (2023). *Influencer marketing: tra diritto e pratiche*. Milano: Giuffrè Francis Lefebvre.

¹³ <https://www.assoinfluencer.org/>.

¹⁴ Statista (2023). *Value of the influencer marketing market worldwide from 2016 to 2023*.

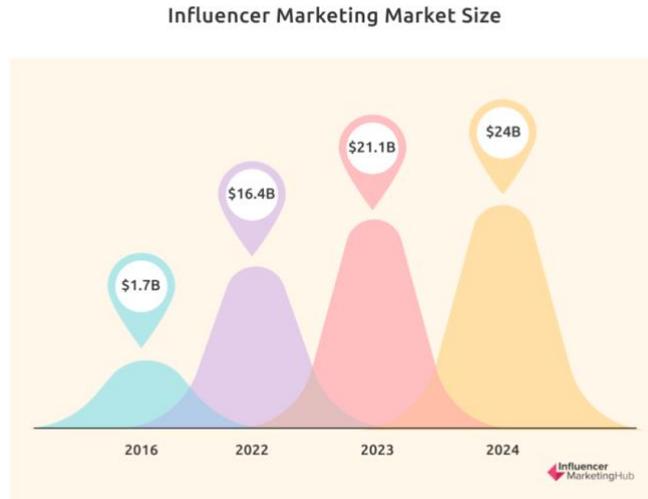


Figure 2: Influencer Marketing Benchmark Report 2023 by Influencer Marketing Hub

According to the Digital 2024 Overview Report¹⁵, published by WeAreSocial in partnership with Melwater, spending on influencer marketing in Italy amounted to \$340.0 million, representing a 13% increase on the previous year.

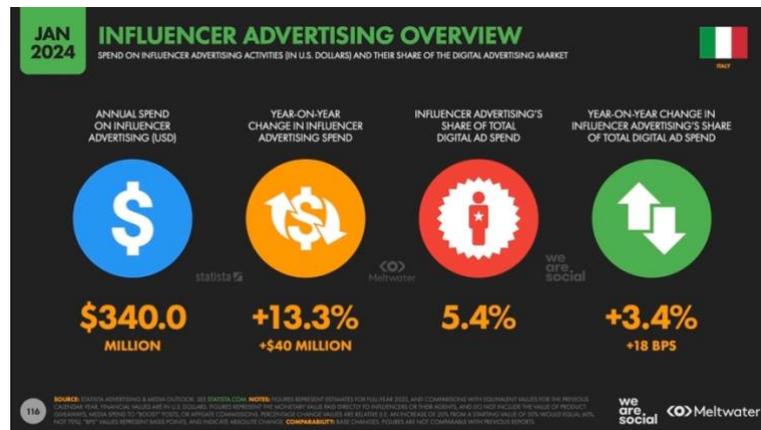


Figure 3: Digital 2024 Overview Report, published by WeAreSocial in partnership with Melwater

The data presented during the first Influencer Day¹⁶ highlighted how the influencer marketing sector in Italy is worth almost €300 million in turnover, with an 8% growth rate in terms of revenue compared to the previous year. The BVA Doxa research, shared during the event and carried out on a sample of 1,000 Instagram users, showed that on average each user follows 18 influencers, two-thirds of whom are Italian and one-third foreign. Thirty-three percent of

¹⁵ <https://wearesocial.com/it>

¹⁶ <https://www.influencerday.it/>

respondents mainly follow well-known influencers with over a million followers, but 67% mainly follow moderately well-known or niche influencers, as they are considered more interesting and genuine. Seventy-eight percent watch stories at least once a day, with 46% watching them several times a day. 83% of the sample stated that influencer posts are the starting point for learning about a new product and making a subsequent purchase, while only 17% said that they are the moment that convinces them to complete the purchase. 68% say they have purchased something because they saw it on social media, a percentage that rises to 75% when considering an audience between the ages of 18 and 24. Influencer marketing is generally considered less invasive and more useful than an online advertising video, so much so that 62% of the sample say they appreciate sponsorships.

Influencer marketing is therefore a useful tool for companies to advertise their products, a promotional channel. In this context, the influencer proposes a specific brand or product, and followers choose independently whether or not to follow the suggested recommendations. The influencer, therefore, is an activator of the purchasing process, but is not a sufficient condition for its conclusion: they are a source of knowledge and inspiration but have a reduced impact on the actual act of purchasing. The customer purchases the product if and only if it meets their needs.

1.2 Classification of influencers and follower segmentation

The term influencer is sometimes used interchangeably with content creator. In both cases, it refers to people who use social media to create content and share it with their audience. In the first case, however, the focus is on the ability to inspire, influence, and persuade a significant number of followers, including those in favor of brands that want to use them. In the case of content creators, the emphasis is on producing original multimedia content that attracts audiences, engages them, and builds loyalty over time. Content can be of many types (text, audio, images, video) and serve different purposes, including entertaining, informing, answering frequently asked questions and curiosities, solving problems, and engaging emotionally. Content creators do not necessarily have to have their own followers, but can produce content for others, whether they are influencers or brands. Similarly, influencers may share content created by content creators, which is therefore not their own original production. In practice, the two terms often end up referring to the same person.

From a marketing strategy perspective, influencer marketing uses influencers to disseminate and promote brand-related content, while content marketing leverages the creation of original content produced by creators. Influencer marketing is enhanced by the use of engaging content that can generate follower engagement, in the same way that content marketing has the potential to reach a wider audience if the content produced is conveyed through influencers.

Influencers can become brand ambassadors, meaning they are chosen by a company to represent and promote its brand and products on an ongoing basis through various offline and online activities, such as participating in events, sponsorships, collaborations for the creation of exclusive collections or original content. The role of brand ambassador requires that the influencer truly knows, uses, and appreciates the products they promote and implies a sort of exclusivity, a commitment to remain loyal to the brand by refraining from promoting competing products or products that could be perceived as such by their audience.

One example is the influencer par excellence, Chiara Ferragni, brand ambassador for Nespresso, for whom she has designed a limited edition product line, filmed commercials, visited coffee plantations, promoted social sustainability projects in Mexico, and inaugurated the Temporary Café Nespresso x Chiara Ferragni in Milan, and wearing a dress customized with a floral decoration made from recycled Nespresso capsules on the red carpet at the Cannes Film Festival.

A comprehensive commitment, which takes the form of in-person and online activities and aims to highlight the brand's values, with particular reference, in the case mentioned, to environmental sustainability and female empowerment. Values that need to be not only spoken about but embodied by a spokesperson who shares and supports them not only with their visibility, but also with their behavior.



Figure 4: Chiara Ferragni in Giambattista Valli Haute Couture, the dress is embellished with delicate flowers handmade using the same 80% recycled aluminum as Nespresso coffee capsules¹⁷

The role of brand ambassador does not exclude collaborations with other companies or the possibility of holding the same role for other brands (Chiara Ferragni, for example, at the time was not only a Nespresso brand ambassador but also a brand ambassador for Pantene, Ghd, and Bulgari).



Figure 5: Chiara Ferragni is Brand Ambassador of Pantene



Figure 6: Chiara Ferragni is International Brand Ambassador of Ghd

¹⁷ <https://www.agendaviaggi.com/sul-red-carpet-di-cannes-nespresso-e-chiara-ferragni-con-una-sorprendente-creazione-haute-couture/>



Figure 6: Chiara Ferragni is Global Ambassador of Bulgari¹⁸

The concept of brand advocacy differs from that of brand ambassador, expressing a willingness to recommend the brand to other people in a disinterested manner and without receiving any particular benefits. In this case, the consumer identifies with the brand's values, or the behavior models it proposes and spontaneously chooses to share their experience and positive evaluation with others. Brand advocates promote the brand through reviews, ratings, feedback, posts on social networks, and comments.

The tools are partly the same as those used by brand ambassadors, and this can make it difficult for users to distinguish whether the promotion of a product or brand stems from spontaneous and disinterested appreciation or from a contract for advertising purposes.

A final distinction must be made between influencers and celebrities, which are different concepts that only overlap in some cases. If by celebrity we mean a person who is very popular outside of social media, it is clear that we are mainly referring to actors, musicians, singers, television personalities, soccer players, and, in general, people with a high degree of notoriety. However, we can observe both situations in which a celebrity opens their own social media profile and becomes an influencer, and situations in which an influencer gains such popularity that they become a celebrity.

¹⁸ <https://www.vogue.it/moda/article/chiara-ferragni-bulgari-global-ambassador-annuncio-foto>

In the field of influencer marketing, there is another term used mainly by agencies, namely talent. In this case, the emphasis is on the scouting activity that some agencies have begun to undertake. It is not surprising that, in the face of a growing sector, there is an increase in brands looking for the right influencers to promote their products and an ever-increasing need to seek out new talent in the digital ecosystem, someone capable of delivering interesting content in an engaging way.

The classification of influencers cannot be separated from the identification of reliable evaluation criteria capable of guiding the choices of brands and agencies. However, the definition of universally recognized KPIs remains an open question today: a survey conducted by the Association of National Advertisers¹⁹ in the United States highlighted that the main challenge for influencer marketing is precisely the absence of shared measurement criteria. This difficulty is due both to the fact that digital platforms calculate engagement rates in different ways, some considering only reactions, comments, and shares, others also including video views, and to the fact that communication agencies produce reports based on proprietary algorithms, which make it difficult to compare different campaigns.

Despite this critical issue, it is possible to identify some indicators that guide the classification of influencers. A first criterion concerns specialization: influencers operate in vertical sectors such as fashion, makeup, tourism, cooking, fitness, or gaming, and their credibility depends on consistency with their area of expertise. Basically, the stronger the bond of trust with the public, the greater the possibility of convincing people outside their own field. Just think of Chiara Ferragni, who has been able to move from promoting luxury brands to advertising consumer products, to supporting museums and social causes. For less established profiles, however, a lack of relevance can undermine perceived authenticity, raising suspicions that the choice is dictated solely by economic motivations.

A second criterion is related to content, as the type, frequency, and quality of publications define the influencer's presence and determine their consistency with the brand's values. Some focus on high-quality technical content, which may be less frequent but more polished, while others focus on informal daily storytelling. In both cases, behind the apparent spontaneity there is always editorial planning that aims to ensure consistency, recognizability, and sustainability over time.

¹⁹ <https://www.ana.net/content/show/id/74274>

In addition to these aspects, there is also the analysis of the target audience. The size of the fan base remains an immediate indicator: celebrities with millions of followers, macro-influencers with over 100,000, micro-influencers with between 1,000 and 100,000, and nano-influencers with less than 1,000 followers. However, numbers alone are not enough: demographic data (gender, age, geographical area) and behavioral interests must also be evaluated to understand whether the influencer's community matches the brand's desired target audience. Consistency between the audience and the company's objectives is a strategic element for the success of a campaign.

Finally, a key criterion is engagement, which measures the level of interaction among followers. A large fan base does not automatically guarantee attention or loyalty: on Instagram, for example, profiles with high numbers of followers often have lower engagement rates, while nano and micro-influencers manage to maintain more direct and participatory relationships. On YouTube, on the other hand, engagement increases as the number of followers grows, while on TikTok it is generally very high, regardless of the size of the community. However, it should be remembered that engagement can be distorted by unfair practices, such as buying fake followers, using bots, or so-called click farming.

Overall, the classification of influencers must therefore consider several factors: thematic consistency, content quality, audience characteristics, and degree of engagement. Only a combined analysis of these elements allows brands to choose the profile best suited to their communication strategies.²⁰

1.3 The influencer as a personal brand: from individual to business

The concept of brand, originally developed in relation to products and services, has progressively broadened its scope to include individuals. According to the American Marketing Association (1960), a brand is "*a name, term, sign, symbol, design, or combination thereof that identifies a seller's product or service and differentiates it from that of competitors*".²¹ This definition, later adopted and refined by Kotler and Aaker, emphasizes the brand's distinctive function as an identifier and differentiator.²² Over time, scholars have highlighted multiple

²⁰ Biondini, D., & Lomaglio, B. (2023). *Influencer marketing: tra diritto e pratiche*. Milano: Giuffrè Francis Lefebvre.

²¹ American Marketing Association. (1960). *Official Definition of Marketing*. Chicago: AMA.

²² Aaker, D. A. (1991). *Managing Brand Equity: Capitalizing on the Value of a Brand Name*. New York: The Free Press.

functions of the brand, identification, practicality, guarantee, optimization, characterization, permanence, hedonism, and ethics, that help consumers reduce uncertainty and orient their choices in increasingly complex markets.²³

If these functions apply to products, services and organizations, they can also be extended to people, giving rise to the concept of *personal branding*. As Ostillio (2020) defines it, personal branding is “*a process through which individuals and entrepreneurs differentiate themselves and stand out from the crowd by identifying and articulating their value proposition as unique, professional, or personal, and then exploiting it through various means aimed at building a consistent image to achieve a specific goal*”.²⁴ In this sense, artists, entrepreneurs, CEOs, managers, and professionals at all levels can build their own “brand”, capable of influencing not only their personal careers but also the reputation of the organizations they represent.

Social media has exponentially accelerated this process, offering unprecedented opportunities for self-promotion and visibility. From this dynamic stems the phenomenon of influencer branding, where individuals—through continuous and strategic communication—become true *human brands*. Within this field, researchers distinguish between different forms of people brands: personal brands and employer brands, celebrity brands, and, most notably, influencer brands.²⁵

Specialization represents a critical factor: today it is difficult to find influencers who are not strongly positioned within specific areas of expertise, such as Fashion-Beauty-Lifestyle or Sports-Fitness-Food. Rankings compiled by specialized platforms such as Not Just Analytics confirm this trend, as they evaluate influencers based on followers, engagement, growth rate, and interaction metrics.²⁶

In the fashion industry, for instance, Chiara Ferragni is consistently positioned among the top profiles, not only because of her wide reach but above all thanks to her capacity to embody values, aesthetics, and narratives that reinforce her brand identity. An Italian DOXA survey (2021) found that her brand awareness exceeded 70% of the national population, confirming her recognition as both a fashion icon and a successful entrepreneur.²⁷ Her case illustrates how personal branding can evolve into a powerful form of influence, capable of combining symbolic, reputational, and economic value.

²³ Kapferer, J.-N. (2012). *The New Strategic Brand Management: Advanced Insights and Strategic Thinking* (5th ed.). London: Kogan Page.

²⁴ Ostillio, M. C. (2020). *Personal Branding: Valorizzare la propria immagine personale*. Milano: Egea.

²⁵ Khamis, S., Ang, L., & Welling, R. (2017). Self-branding, ‘micro-celebrity’ and the rise of Social Media Influencers. *Celebrity Studies*, 8(2), 191–208.

²⁶ Not Just Analytics. (2024). *Top Italian Influencers Ranking*.

²⁷ DOXA. (2021). *Chiara Ferragni Brand Awareness Survey*. Milano: DOXA.

1.4 Business models and monetization strategies

The revenue model in influencer marketing is mainly based on the fees generated through collaborations with brands and other income streams linked to their digital presence. The first and most widespread monetization strategy is represented by sponsored content, where influencers create posts, videos, or stories to promote products or services on their social channels. Compensation can take different forms: direct payment (*advertising*), product gifting (*gift*), or barter arrangements (*supplied by*).²⁸

Alongside this, many influencers use affiliate marketing, earning a percentage of sales generated through personalized links or discount codes. In this case, the revenue does not depend on the content itself, but on the actual purchases made by followers. A further evolution of this system is represented by affiliate programs managed by e-commerce platforms or specific brands, which guarantee commissions on all sales realized via the influencer's referral link, regardless of the single sponsored content.²⁹

Another common strategy is based on long-term collaborations, where the relationship between brand and influencer is consolidated through continuous contracts that foresee regular content creation and participation in corporate events. These agreements guarantee influencers more stable revenues and allow companies to benefit from consistent and lasting communication over time.³⁰

Revenue can also come from event participation, such as fashion shows, store openings, or product launches. In such cases, influencers receive a fee but may also benefit from indirect advantages, such as coverage of travel and accommodation expenses or exclusive access to products.³¹

Some influencers expand their business model by creating and selling digital products, such as e-books, online courses, or guides, which allow them to monetize their expertise directly. In addition, many choose to develop their own merchandising lines, often tied to their personal brand, including clothing, accessories, or lifestyle products.³²

²⁸ Evans, N. J., Phua, J., Lim, J., & Jun, H. (2017). Disclosing Instagram Influencer Advertising: The Effects of Disclosure Language on Advertising Recognition, Attitudes, and Behavioral Intent. *Journal of Interactive Advertising*, 17(2), 138–149.

²⁹ De Veirman, M., Cauberghe, V., & Hudders, L. (2017). Marketing through Instagram influencers: The impact of number of followers and product divergence on brand attitude. *International Journal of Advertising*, 36(5), 798–828.

³⁰ Biondini, D., & Lomaglio, B. (2023). *Influencer marketing: tra diritto e pratiche*. Milano: Giuffrè Francis Lefebvre.

³¹ Djafarova, E., & Trofimenko, O. (2019). 'Instafamous' – credibility and self-presentation of micro-celebrities on social media. *Information, Communication & Society*, 22(10), 1432–1446.

³² Khamis, S., Ang, L., & Welling, R. (2017). Self-branding, 'micro-celebrity' and the rise of Social Media Influencers. *Celebrity Studies*, 8(2), 191–208.

For profiles that have built strong authority in their sector, there is also the possibility of offering consulting or coaching services, targeted both at individuals and companies seeking to improve their online presence or learn effective marketing strategies.³³

In some cases, the visibility acquired leads influencers to be involved in television programs, live events, or conferences, where they can be invited as speakers or guests. This generates direct compensation and, at the same time, strengthens their public exposure. A further development of this trend can be seen in the production of branded content on streaming platforms and podcasts, which represent an increasingly relevant space for brand collaborations. In some of the most advanced cases, influencers even become protagonists of films, TV series, or documentaries, consolidating their status as cross-media figures.³⁴

The influencer monetization model is structured as a multichannel system, where collaborations with brands coexist with autonomous initiatives for content creation, product development, and service provision. This plurality of revenue streams confirms that influencers are no longer just digital testimonials, but true communication entrepreneurs, capable of building business ecosystems centered around their personal brand.

³³ Casaló, L. V., Flavián, C., & Ibáñez-Sánchez, S. (2018). Influencers on Instagram: Antecedents and consequences of opinion leadership. *Journal of Business Research*, 117, 510–519.

³⁴ Statista. (2023). *Influencer marketing revenue sources worldwide*. Retrieved from <https://www.statista.com>

Chapter 2

Legal Foundations of Influencer Contracts

2.1 Types of contracts between influencers and enterprises

The legal relationship between an influencer and a company (or an agency that handles their marketing) is usually formalized through a contract. In Italian law, there is no specific contractual figure named for such an agreement: it is therefore an atypical contract, stipulated on the basis of the principle of contractual autonomy enshrined in Article 1322 of the Italian Civil Code³⁵. In legal theory, this contract has been likened to a testimonial or advertising sponsorship contract, so much so that terms such as “*brand ambassador contract*” or “*sponsorship contract*” are often used to refer to these agreements. Essentially, the influencer marketing agreement requires the influencer, also known as a *creator* or *talent*, to disseminate certain content on their social media channels for promotional purposes, giving visibility to the brand and its products, and the client company to pay compensation in return, either in cash and/or in the form of free goods or services³⁶.

It is therefore a contract for reciprocal services: on the one hand, there is the influencer’s service consisting of commercial communication (posts, stories, videos, etc.), and on the other, the sponsor’s remuneration (payment in cash and/or benefits in kind). Both parties pursue a goal of mutual commercial advantage: the influencer monetizes their audience and online notoriety, while the company obtains a targeted form of advertising to the influencer’s followers, benefiting from their ability to influence the purchasing decisions of that target audience.

Although atypical, influencer marketing contracts now tend to feature recurring elements and clauses, to the point that a fairly uniform contractual practice is becoming established. Usually, a well-structured contract of this type contains:

- Identification of the parties: precise indication of the contracting parties, on the one hand, the influencer (often a professional with a VAT number or personal company), and on the other, the sponsoring company (or an intermediary agency acting on behalf

³⁵ Codice Civile, art. 1322 – Autonomia contrattuale (consente alle parti di concludere contratti atipici purché diretti a realizzare interessi meritevoli di tutela secondo l’ordinamento giuridico).

³⁶ See, for example, “Tribunale di Milano, ordinanza 20 ottobre 2020”, (case “Alitalia/New Moon” concerning Instagram posts remunerated with benefits in kind), in which the judge confirms that the free supply of goods may constitute sufficient consideration to constitute a commercial promotion agreement.

of the company). Any third parties involved, such as a talent agency representing the influencer, should also be mentioned.

- Subject of the collaboration: a detailed description of the promotional activities required of the influencer. For example, the number and type of content to be created (Instagram posts, stories, YouTube videos, TikTok reels, etc.), the channels on which to publish them, the duration of the campaign or publication period, the hashtags or tags to be included, any key messages to be communicated, and instructions on messages to avoid to align with the brand's communication strategy.
- Remuneration and payment methods: indication of the agreed remuneration and its forms. In some cases, the agreement may provide for compensation in the form of free products only (barter or in-kind payment), but for many professional influencers, cash compensation is established. Sometimes mixed models are adopted, such as a fixed fee plus a percentage commission on sales generated through a discount code or unique affiliate link provided to the influencer.
- Exclusivity and non-competition: any sector exclusivity clauses requested by the sponsor. The brand often requires the influencer to undertake not to promote competing brands' products for the duration of the contract, and, sometimes, for a period after the campaign. For example, a fashion influencer hired as an ambassador for a cosmetics brand may have to refrain from advertising other competing cosmetics brands throughout the collaboration.
- Content approval: clauses that reserve the company the right to review or approve in advance the content that the influencer will produce. The purpose is to verify that posts comply with the guidelines provided by the brand and with current regulations, in particular, ensuring that the advertising labels required by law (e.g., #ad or #adv) are included and that the content does not contain unauthorized or potentially misleading statements.
- Confidentiality obligations: the influencer's commitment not to disclose confidential information learned during the collaboration (e.g., news about upcoming products not yet public, details of campaigns being launched, etc.). These NDA clauses protect trade secrets and the timing of the company's marketing strategies.
- Use of image rights and intellectual property: rules governing the use of content created and the influencer's image. Generally, the influencer retains copyright on the original materials produced (photos, videos, texts), but grants the company a license to use them, often non-exclusive and limited to the campaign, to disseminate them on the company's

channels. Similarly, the influencer authorizes the use of their name, nickname, and image in relation to the campaign, in compliance with the rules on image rights (Articles 96–97 of Law 633/1941 on copyright).

- Duration, withdrawal, and early termination: indication of the duration of the agreement, often linked to a specific campaign or a defined period, and provision for withdrawal or early termination conditions. Express termination clauses often appear, allowing the sponsor to immediately terminate the contract upon the occurrence of certain breaches or events related to the influencer's conduct. For example, failure to comply with agreed instructions, significant delays in publication, or situations in which the influencer's behavior seriously damages the brand's image may be grounds for termination.

In particular, so-called “*morals clauses*” or “*behavior clauses*” are now common, similar to those included in contracts with traditional testimonials (e.g., athletes or entertainment celebrities). These clauses stipulate that, in the event of behavior by the influencer that is likely to damage the brand's image or reputation, the company may immediately terminate the contract and claim damages³⁷. Typically, these clauses cover events such as scandals or convictions involving the influencer, drug use or other conduct contrary to the law and public decency, offensive or discriminatory online behavior that triggers negative public reactions, etc. The basic idea is to protect the sponsor from the risk of being associated with a person who, due to reprehensible actions, suddenly becomes “toxic” to public opinion. Similarly, it is often agreed that the influencer may not denigrate the product or company during and after the collaboration, with contractual penalties or the company's right to take legal action to obtain compensation in such cases.

In more recent agreements, also in light of well-known cases of hidden advertising sanctioned by the authorities (think of the “Pandoro Ferragni–Balocco” case, see in 3.4 *Case Study Italy - Chiara Ferragni x Balocco: the influencer brand and product co-branding*), clauses are being included that reinforce the influencer's obligations of conduct in terms of transparency. For example, the contract may expressly require the influencer to comply with all advertising regulations and industry guidelines, as well as to actively collaborate to ensure the transparency of sponsored content. It is common for the influencer to be required to include agreed wording

³⁷ A classic example of a moral clause is cited in D. Bastianon, “Clausole di condotta e contratti con testimonial” (Conduct clauses and endorsement contracts), Riv. Dir. Industriale, 2019, p. 45, which highlights how such agreements protect the company's investment in the public figure, providing for the termination of the contract and penalties if the endorser engages in conduct incompatible with the company's values.

(#adv, commercial tags, etc.) in their posts and to submit the content to the company for prior legal review before publication. In addition, many agreements include indemnity clauses in favor of the company: if the authorities impose penalties for breach of obligations (e.g., a fine from the AGCM for an advertising post not marked as such), the influencer must reimburse the company for the amount paid or otherwise bear, in whole or in part, the economic consequences of their omission. In this way, the risk of penalties is contractually allocated to the influencer, incentivizing them to strictly comply with the rules of transparency.

It should be noted that the atypical and novel nature of this contract requires the parties to carefully regulate all aspects of the relationship in order to avoid gaps and uncertainties in interpretation.

Legal theory and case law are beginning to provide a legal framework for this type of contract, relating it to other well-known contractual arrangements, in general terms, it has been referred to as a contract for work or for the provision of services, but characterized by a marked element of trust *intuitu personae*³⁸. In some specific cases, the influencer's activity may overlap with other typical contractual figures: for example, if the influencer promotes the products of a single company on a stable and continuous basis, with obligations to procure customers in return for a percentage remuneration, the elements of a commercial agency contract pursuant to Articles 1742 et seq. of the Italian Civil Code could be identified. In a recent case, the Labor Section of the Court of Rome, in its ruling no. 2615 of March 4, 2024, classified an influencer active in the food supplement sector as an "influencer-commercial agent," considering the relevant regulations (including ENASARCO social security contributions) to be applicable³⁹.

However, this is a peculiar case: the judges themselves specified that not every activity of a creator fits into the agency scheme, given the multiplicity of operating models of influencers. In most situations, in fact, the influencer remains a self-employed professional, whose relationship with the brand is configured as a coordinated but not subordinate collaboration. It is extremely rare for a creator to be considered an employee of the brand, a scenario that could only arise if all the indicators of subordination were present (heterodirection, imposed working hours, stable integration into the company organization, etc.).

³⁸ Biondini, D., & Lomaglio, B. (2023). *Influencer marketing: tra diritto e pratiche*. Milano: Giuffrè Francis Lefebvre.

³⁹ Tribunale di Roma, sez. lavoro, 4 marzo 2024, n. 2615. In this ruling (commented on by A. Magliaro and S. Censi, *Rivista dir. tributario online*, February 13, 2025), the judge recognized the agency nature of the activity of certain influencers who collaborate continuously and stably with a brand, requiring them to register with Enasarco and pay social security contributions as commercial agents. However, the decision emphasizes the particular nature of the case, warning that not every influencer can be classified as an agent.

Normally, however, influencers retain a high degree of creative and executive autonomy, falling within the scope of self-employment, occasional or professional. In summary, the prevailing legal classification of the relationship is that of a contract for services pursuant to Article 2222 of the Italian Civil Code (provision of services), with a strong fiduciary character linked to the personal qualities of the influencer (contract *intuitu personae*, non-transferable without consent). The particular nature of the phenomenon requires careful examination on a case-by-case basis to verify the possible recurrence of different or parallel legal schemes and ensure compliance with mandatory rules (e.g., consumer protection, unfair terms, tax and social security obligations, etc., applicable depending on the legal nature attributed to the contractual relationship).

2.3 Pre-contractual, contractual, and extra-contractual liability

In the relationship between a company and an influencer, the various aspects of legal liability that may arise at different stages must be considered: before the contract is signed, during the performance of the contractual relationship, and outside of strictly contractual obligations, towards third parties.

2.3.1 Pre-contractual liability

During negotiations and the formation of the agreement, the parties are required to act in good faith (Article 1337 of the Italian Civil Code)⁴⁰. Failure to fulfill the duties of loyalty in negotiations, for example, conducting negotiations without a real intention to conclude, suddenly abandoning negotiations without justified reason after having given the other party reasonable confidence, or disclosing confidential information learned during the pre-contractual phase, may give rise to pre-contractual liability (*culpa in contrahendo*). In the context under consideration, consider the case of a company that, after requesting a draft creative project from an influencer or having them incur preparatory costs (photo shoots, etc.), suddenly withdraws from negotiations without legitimate reason: the influencer could claim

⁴⁰ Codice Civile, art. 1337 – Obbligo di buona fede nelle trattative. Violation of this obligation gives rise to pre-contractual liability (*culpa in contrahendo*). See also Art. 1338 of the Civil Code on the obligation to inform the other party of any causes of invalidity of the contract, the violation of which also gives rise to liability.

compensation for damages from negotiations conducted in vain, quantified in the expenses incurred and the lost business opportunity⁴¹.

Similarly, if an influencer obtains sensitive information during preliminary discussions (e.g., marketing strategies, customer lists) and uses it unfairly, the damaged company could take action for pre-contractual liability. This form of liability does not protect the “interest in concluding the contract” (one cannot demand to be forced to contract), but the negative interest in not suffering unfair damage prior to the contract: it therefore entails compensation for expenses and losses incurred due to the other party’s misconduct⁴².

2.3.2 Contractual liability

Once the contract between the company and the influencer has been concluded, each party is bound to fulfill the obligations undertaken, according to the general principle of *pacta sunt servanda*. Failure to comply with contractual obligations constitutes a breach governed by Articles 1218 and 1453 of the Italian Civil Code, which gives rise to contractual liability⁴³.

For example, if the influencer does not publish the agreed content within the agreed time frame and in the agreed manner, or if the content is of a lower quality than the agreed standard, they will be in breach of contract with the brand. Conversely, if the sponsoring company delays payment of the fee or fails to provide the product promised for sponsorship, it will be in breach of contract with the influencer. In the event of serious or total breach, the faithful party may terminate the contract and claim compensation for damages (Article 1453 of the Italian Civil Code). If, on the other hand, the obligation is performed but not exactly (partial, late, or non-compliant performance), the non-breaching party may claim compensation for the resulting damages (Articles 1218-1223 of the Italian Civil Code).

In practice, many aspects of contractual liability are regulated by the contractual clauses themselves: as we have seen, contracts with influencers often provide for penalties for delays

⁴¹ On compensation for pre-contractual damages in commercial sponsorship negotiations, see G. De Nova, “*Culpa in contrahendo e accordi pubblicitari*” (Negligence in contracting and advertising agreements), *Contr. e Impr.*, 2018, p. 457, which refers to the classic principle that compensable damages are limited to negative interest (expenses and losses incurred) and do not include the expected profit from the failure to conclude the contract.

⁴² Codice Civile, art. 1337 – *Obbligo di buona fede nelle trattative*. Violation of this obligation gives rise to pre-contractual liability (*culpa in contrahendo*). See also Art. 1338 of the Civil Code on the obligation to inform the other party of any causes of invalidity of the contract, the violation of which also gives rise to liability.

⁴³ Codice Civile, art. 1218 – *Responsabilità del debitore* (“*a debtor who does not perform the service due shall be liable for damages, unless he proves that the non-performance or delay was caused by an impossibility of performance not attributable to him*”). See also Art. 1453 c.c. on termination for non-performance and Art. 1223 c.c. on the amount of compensation (actual damage and loss of profit).

or breaches, express termination clauses for certain behaviors, indemnity obligations, and specific risk allocations. This allows the parties to predetermine the consequences of any breach of contract, supplementing the legal framework.

For example, a penalty clause may stipulate that if the influencer misses a scheduled publication, they must pay a predetermined penalty; or an indemnity clause may require the influencer to hold the company harmless from financial penalties imposed by the AGCM (Italian Competition Authority) due to omissions or actions by the influencer (the case of the fine for hidden advertising was mentioned above). Of course, such agreements must comply with legal limits, for example, they must not violate mandatory rules or be unfair, but they are an expression of the parties' contractual freedom to modulate their respective responsibilities within the boundaries of contractual public policy.

2.3.3 Extra-contractual liability – Civil liability towards third parties

In addition to the obligations that the parties assume between themselves in the contract, there is the possibility that the behavior of the influencer or the company may cause damage to third parties (e.g., consumers or other market operators): in this case, Aquilian (or extra-contractual) liability may arise pursuant to Article 2043 of the Italian Civil Code⁴⁴.

In the field of influencer marketing, a typical example of third-party liability is the dissemination of unlawful or harmful messages: for example, if the influencer, in promoting a product, uses false or misleading statements that mislead consumers, the latter could claim to have suffered damage (e.g., an economic outlay for a product that turned out to be different from what was represented) and seek civil protection. In practice, aggrieved consumers tend more often to activate public protection mechanisms (reports to the AGCM for misleading advertising) or collective instruments such as class actions, rather than undertaking costly individual compensation claims; however, in theory, nothing precludes a claim for damages against the brand and/or influencer for unfair commercial practices, based on the combined provisions of Articles 2043 of the Italian Civil Code and 20-27 of the Consumer Code (violation of rules protecting the interests of others)⁴⁵.

⁴⁴ Codice Civile, art. 2043 – Risarcimento per fatto illecito (“*Any intentional or negligent act that causes unjust damage to others obliges the person who committed the act to pay compensation*”). This constitutes the general rule on non-contractual or tortious liability.

⁴⁵ Codice del Consumo (D.lgs. 206/2005), artt. 20-26: in particular art. 20 (“*Divieto di pratiche commerciali scorrette*”), art. 21 (“*Pratiche ingannevoli per azione*”), art. 22 (“*Pratiche ingannevoli per omissione*”). Annex I to the Code (“*Pratiche considerate in ogni caso scorrette*”) prohibits, under point 11, “*Using editorial content for commercial promotion purposes, paying the professional (i.e., influencing the content) without making it*

Another example: if, in praising a product, the influencer makes disparaging statements about a competing company, the latter could take legal action alleging unfair competition or commercial defamation. In such situations, the matter goes beyond the contractual relationship between the influencer and the sponsor, entering the realm of civil wrongs: the influencer and, as a rule, the client company, which benefited from the unlawful communication, may be held jointly and severally liable for damages caused to third parties. It should be noted that, at present, there is no express provision establishing joint and several liability of the advertiser and the influencer towards consumers harmed by misleading advertising; however, legal scholars and practitioners speculate that such a provision may be introduced in the future to make both parties fully liable to the public⁴⁶.

To date, those who suffer damage from misleading advertising tend to take action mainly against the manufacturer (a professional under the Consumer Code), while the influencer, although he or she may also be classified as a “professional” when operating within the scope of his or her remunerated activity, is mainly liable on other levels: administrative (sanctions by the authorities, see below) and contractual towards the brand, based on agreements between the parties. Obviously, the individual responsibility of the influencer, and anyone else, for further illegal acts, including those of a criminal nature, remains unchanged: think of published content that constitutes defamation (Article 595 of the Italian Criminal Code) towards third parties, or copyright infringements, unlawful incitement, etc. In such cases, the influencer is personally liable according to the rules governing each offense, and any involvement of the company will depend on the degree of complicity or advantage gained from the offense (in the case of defamation, for example, the brand may be uninvolved and therefore not liable; in the case of violations committed in the interest of the company, the latter could be liable for contributory negligence or under Article 2049 of the Italian Civil Code if the influencer could be classified as its “agent”).

In summary, non-contractual liability in influencer marketing represents the protection of the interests of third parties (consumers, competitors, the general public) harmed by conduct related

clear from the content or through images or sounds clearly recognizable by the consumer that it is advertising” (so-called “*Pubblicità redazionale occulta*”).

⁴⁶ Biondini, D., & Lomaglio, B. (2023). *Influencer marketing: tra diritto e pratiche*. Milano: Giuffrè Francis Lefebvre. Cit. “where the introduction of joint liability between influencers and advertisers towards consumers is proposed, based on the model already in place in other sectors (e.g., pyramid sales). Currently, under the Consumer Code, the consumer has the right to take individual action against the professional (which in the case of hidden advertising is mainly the sponsoring company); if the influencer operates professionally, they too can be considered a ‘professional’ within the meaning of Article 18(b) of the Consumer Code, but the practice of individual protection against them is still underdeveloped”.

to promotion: it complements the internal contractual liability between the parties and acts as an additional deterrent against misconduct that has external repercussions.

Finally, in addition to civil liability, it should not be forgotten that certain behaviors may entail administrative and regulatory liability (e.g., fines imposed by the AGCM for misleading advertising, or by the AGCOM for media violations, as discussed below) and even criminal liability in extreme cases (e.g., advertising of dangerous or unauthorized products, consumer fraud, etc.). These consequences fall outside the scope of the contract, but still affect the influencer-company relationship: the contract should specify who bears the risk of penalties and how the parties protect each other. The expected regulatory developments, with the possible introduction of more stringent shared responsibilities, would make it even more necessary to detail in contracts the division of obligations, controls, and recourse between the company and the creator, in order to avoid uncertainty and conflict in the event of illegal acts.

2.4 Transparency obligations and regulation against hidden advertising

One of the key principles of advertising law, which is also fully applicable to influencer marketing, is the principle of transparency or recognizability of the promotional nature of commercial content. Both Italian and European Union legislation require that consumers be clearly informed when a message constitutes commercial communication, so that they can distinguish it from spontaneous or neutral content. In other words, hidden advertising is prohibited: all forms of advertising must be obvious and identifiable as such by the public⁴⁷.

In our legal system, this principle is based on several provisions.

First, the Consumer Code (Legislative Decree 206/2005) prohibits unfair commercial practices and, in particular, qualifies the omission of relevant information as misleading. Article 22 of the Consumer Code provides that failure to indicate the commercial intent of a communication, when it is not already apparent from the context, also constitutes a misleading omission⁴⁸. Furthermore, Annex I to the Code (which reproduces the ‘black list’ of unfair practices prohibited by the EU directive) expressly includes in point 11 the case of “advertising that is subliminal or hidden within editorial content!”. In practice, if an influencer promotes a product

⁴⁷ Codice del Consumo (D.lgs. 206/2005), artt. 20-26: in particular art. 20 (“*Divieto di pratiche commerciali scorrette*”), art. 21 (“*Pratiche ingannevoli per azione*”), art. 22 (“*Pratiche ingannevoli per omissione*”). Annex I to the Code (“*Pratiche considerate in ogni caso scorrette*”) prohibits, under point 11, “*Using editorial content for commercial promotion purposes, paying the professional (i.e., influencing the content) without making it clear from the content or through images or sounds clearly recognizable by the consumer that it is advertising*” (so-called “*Pubblicità redazionale occulta*”).

⁴⁸ Ibidem.

or brand without making it clear that it is sponsored content (i.e., disseminated as part of a commercial agreement in exchange for compensation or other benefits), they are engaging in a form of prohibited hidden advertising. The rules aim to prevent the average consumer from being led to believe that the influencer's positive opinion is spontaneous and disinterested, when in fact it is influenced by a commercial relationship: such deception about the advertising nature of the message is considered likely to distort the economic choices of the public and is therefore punishable.

In addition to the Consumer Code, which primarily protects consumers, there are also rules governing fair competition between companies, such as Legislative Decree 145/2007 on misleading and comparative advertising⁴⁹. The latter prohibits misleading advertising in general and disguised advertising, offering protection to competing companies harmed by non-transparent practices. Under these provisions, both the advertiser (i.e., the company that owns the brand commissioning the promotion) and the person who physically disseminates the message (in this case, the influencer, if acting under a commercial agreement) may be held liable for misleading advertising or unfair commercial practices if they fail to provide the necessary warnings about the advertising nature of the content. It is important to note that these transparency obligations apply regardless of the size or “follower count” of the influencer: even so-called micro-influencers or nano-influencers (with small audiences) are required to comply with the regulations, and in the event of a violation, they may be subject to sanctions by the Italian Competition and Market Authority (AGCM). In fact, there is no exemption for ‘small’ promotional activities: the duty to clarify the promotional nature of content is general and does not depend on the notoriety or reach of the person spreading the message.

Since 2017, the AGCM has played a decisive role in calling on influencers and companies to comply with these principles of advertising recognition. In the absence (so far) of a specific law on the phenomenon, the antitrust authority has used the tools at its disposal by issuing moral suasion and guidelines. In July 2017, the AGCM—in collaboration with the Special Antitrust Unit of the Guardia di Finanza—sent a first series of moral suasion letters to some well-known influencers and their sponsor companies, inviting them to comply with the rules of transparency

⁴⁹ D.Lgs. 2 agosto 2007, no. 145 – *Attuazione della direttiva 2006/114/CE sulla pubblicità ingannevole e comparativa*. This legislation applies to B2B relationships and prohibits, among other things, misleading advertising that could damage a competitor. An influencer who disseminates hidden advertising for a product could, in theory, also be prosecuted in this regard by a competitor of the manufacturer (pursuant to Art. 4 D.lgs. 145/2007), arguing that the practice distorts fair competition.

in social media communications⁵⁰. In these communications (which were non-binding but had a strong practical impact), the Authority expressly requested that sponsored posts include clearly visible hashtags or labels such as *#ad*, *#adv*, *#sponsored*, *#advertisement*, or equivalent phrases, preferably at the beginning of the post, in order to immediately signal the commercial nature of the content to the public. In 2018, about a year later, the AGCM returned to the issue by sending a second round of moral suasion aimed also at influencers with a lower number of followers (a sign that the focus extended to the entire category, not just celebrities). On this occasion, the Authority reiterated that the ban on hidden advertising is general in scope and fully applies to social media, reminding influencers of their duty not to make posts that are actually the result of commercial agreements appear spontaneous and disinterested⁵¹.

The AGCM emphasized, in particular, that tagging a company's profile or brand in photos constitutes promotion, and that if this is done without further notice, there is a risk of not making the advertising nature of the content sufficiently clear to the public. Operators were therefore reminded of their obligation to always make the promotional purpose explicit, where applicable, by using warnings such as "*#advertising*," "*#sponsored*," "*post in collaboration with [brand name]*," etc., preferably combined with the brand name, so that the promotional nature is evident at first glance⁵².

These guidelines have had a significant impact on practice: today, it has become common, especially on Instagram, to see phrases such as "*Paid partnership with [brand name]*" at the top of posts, or the hashtag *#adv/#ad* at the beginning of captions or in the first few seconds of stories, in compliance with these transparency requirements.

The Institute of Advertising Self-Regulation (IAP) – Italy's advertising self-regulation body, has also contributed to the change, adopting its own self-regulation code for digital communications known as the "*Digital Chart*" back in 2016⁵³. The Digital Chart, which is

⁵⁰ AGCM, Moral suasion influencer 2017 – AGCM communication dated July 27, 2017 (Prot. 0054306) sent to influencers and companies, concerning "Invitation to comply with the ban on hidden advertising on Instagram." Subsequently illustrated in AGCM Bulletin no. 31/2017. See the summary in English in the press release "Influencers abide to AGCM on clearly recognizable advertising on social media," AGCM, September 6, 2017.

⁵¹ AGCM, Second moral suasion 2018 – AGCM press release "Second moral suasion on influencer marketing: hidden advertising is always prohibited, including on social media", August 6, 2018. In this press release, the Authority reports that it has sent new letters to micro and mid-tier influencers, reiterating that all sponsored content must be reported (examples provided: *#advertising*, *#sponsored*, *#paid*, *#productprovidedby...*) and stating that it will continue to monitor the phenomenon.

⁵² Ibidem.

⁵³ Istituto dell'Autodisciplina Pubblicitaria (IAP) – "*Digital Chart – Linee guida alla comunicazione commerciale digitale*", ed. 2016 (aggiornata nel 2020). Documento reperibile sul sito IAP <https://www.iap.it> (sezione Documenti). The Digital Chart is referred to, for example, in AGCM resolution PS/10500 "Violetta – Disney" (2016) as a relevant code of conduct pursuant to Article 27 of the Consumer Code.

binding for those who voluntarily join the IAP, reaffirms the principle that all online commercial communications “*must be clearly recognizable as such*” and suggests a series of standard warnings to be used (e.g., #adv, #advertising, #promoted by [brand], etc.), which are entirely similar to those indicated by the AGCM. Although this is private self-regulation, these guidelines have been widely adopted in industry practice and are often referred to in contracts between companies and influencers as obligations with which the influencer must comply. Furthermore, the AGCM itself takes into account whether or not these standards are adhered to when assessing the unfairness of a behavior: sponsored content that is not reported even according to IAP rules is more easily punishable.

Violations of transparency obligations can result in significant penalties. Under the Consumer Code, the AGCM can impose administrative fines. Following the changes introduced by the so-called “Omnibus package” (Directive (EU) 2019/2161, transposed in Italy by Legislative Decree 26/2023), these penalties have been increased: today they can reach up to 4% of the annual turnover of the offending professional (company) or, if turnover data is not available, up to €10 million⁵⁴. This high ceiling aims to make the crackdown on unfair commercial practices, including those on social media, truly dissuasive. With regard to influencer marketing, the Antitrust Authority has intervened on several occasions, initially through moral suasion and then also with formal sanctions.

A case in point, which received widespread media coverage, is the “Pandoro Ferragni–Balocco” affair at Christmas 2022. In that campaign, the well-known influencer Chiara Ferragni promoted a special edition pandoro produced by the confectionery company Balocco on her social networks, emphasizing that part of the proceeds would be donated to charity in favor of a children’s hospital. The message conveyed therefore combined advertising and altruistic purposes. Subsequently, however, the AGCM found that the communication was misleading in several respects: firstly, because it led consumers to mistakenly believe that by purchasing that pandoro they would be contributing directly to the charitable donation (whereas in reality the donation had been decided as a fixed amount, already paid by the company regardless of sales, so that each pandoro sold did not increase the amount donated at all)⁵⁵. In addition, a much

⁵⁴ Direttiva (UE) 2019/2161 (cd. Direttiva Omnibus), art. 1(12) e (13) - amended, among others, Article 27 of the Consumer Code, introducing a new penalty system of up to 4% of turnover or €2 million (now increased to €10 million by the Italian legislator) for unfair commercial practices. Transposed in Italy by D.lgs. 26/2023. See Article 27, paragraph 9 of the Consumer Code as currently in force.

⁵⁵ AGCM, Provvedimento PS12506 (Ferragni/Balocco) – Decisione dell’Autorità Garante Concorrenza e Mercato n. PS12506, pubblicata il 14 dicembre 2023. The reasoning (paras. 33–45) describes the misleading nature of the practice: a fixed donation had already been made prior to the sales, but the advertising message suggested a direct link between the purchase and the charity.

higher than normal price was advertised (around €9 compared to ~€3.70 for a traditional pandoro), suggesting that the price difference was due to the amount donated to charity, a circumstance denied by the facts, given that the donation did not depend on sales⁵⁶. Furthermore, Chiara Ferragni's personal involvement in the charity initiative was emphasized, suggesting that the influencer was supporting the hospital "together with Balocco," when in reality Ferragni had simply granted the use of her brand in exchange for a million-dollar fee, without participating in the donation, except for her role as spokesperson.

In a ruling in December 2023, the AGCM deemed this message to be an unfair commercial practice in violation of Articles 20, 21, and 22 of the Consumer Code, judging it to be contrary to professional diligence and likely to distort consumers' economic choices. For the "Pandoro Pink Christmas," as it was renamed by the media (pandoro-gate), the Authority fined Balocco S.p.A. €420,000, while imposing total fines of approximately €1 million on the two companies linked to Ferragni (Fenice S.r.l. and TBS Crew S.r.l.)⁵⁷. This was one of the first cases in Italy in which a prominent influencer, together with the sponsoring company, was fined for misleading/hidden advertising, setting an important precedent. The episode demonstrated in concrete terms that responsibility for misleading messages can be shared: on the one hand, the commissioning company is liable, as a professional promoter of the commercial practice; on the other hand, the influencer – also considered a professional, albeit an 'atypical' one – can be held liable, both administratively (joint financial penalties with the company) and in terms of damage to their own reputation. This case has had a strong impact on the sector: it has triggered reflection and led to stricter rules, increasing operators' attention to contractual aspects and preventive control of advertising content by companies (as already mentioned with reference to the contractual clauses introduced after the *Ferragni case*).

In addition to the administrative sanction imposed by the AGCM, the Ferragni–Balocco case also had civil court proceedings, demonstrating that protection against deceptive practices can take place on two fronts. Some consumer associations (CODACONS and Movimento Difesa

⁵⁶ Ibidem. The AGCM highlights the significantly higher price of the "Ferragni" pandoro compared to the standard product and concludes that consumers were misled about the destination of the additional expenditure (believing it was going to charity).

⁵⁷ Ibidem. The AGCM (Italian Competition Authority) classified the practice as contrary to diligence (Art. 20, paragraph 2 of the Consumer Code) and misleading pursuant to Articles 21 and 22, imposing fines on Balocco (€420,000) and Chiara Ferragni's companies (Fenice €400,000 and TBS Crew €675,000). The publication of an extract of the ruling on the companies' websites was also ordered. For further information, see G. Mastropasqua, "The unfair commercial practices of influencers: the Ferragni-Balocco case," *Ius in Itinere*, Dec. 28, 2023.

del Cittadino) brought a collective injunction action under Article 840-sexiesdecies of the Italian Code of Civil Procedure before the Court of Turin, requesting that the commercial practice be declared unfair and that its continuation be prohibited. The Court of Turin - Specialized Business Section - by decree no. 558/2024 of April 23, 2024, upheld the appeal, ascertaining and declaring Balocco S.p.A. liable for unfair commercial practices to the detriment of consumers⁵⁸. In its reasoning, the judge reiterated that the communication was likely to mislead the average consumer about the beneficial nature of the purchase and the personal involvement of the influencer, in violation of Articles 20, 21, and 22 of the Consumer Code. This is a measure issued as part of a class action for an injunction (which aims to stop the unlawful practice rather than compensate individual damages): although it does not take the form of a judgment but of a chamber decree, it confirmed the unlawfulness of the conduct and formally prohibited it for the future⁵⁹.

This pilot case therefore demonstrates that, alongside the intervention of the administrative authority (AGCM), it is also possible and sometimes complementary for the ordinary courts to intervene to protect consumers, without this violating the *ne bis in idem* principle, as these are proceedings on different levels (administrative sanctions and civil injunctions). The so-called “dual track” of protection against misleading advertising therefore allows for both public sanctions and parallel civil remedies, increasing the pressure to comply with transparency obligations.

In conclusion, the current regulatory framework clearly requires that influencer marketing cannot operate in a free zone: advertising messages disguised as organic content violate the principle of fairness and transparency towards the public and are therefore unlawful. Influencers and companies are called upon to take all precautions, from drafting detailed contracts to training on their legal obligations, to ensure that promotional collaborations on social media are immediately recognizable as such.

Regulatory authorities and courts, as we have seen, have the tools to severely sanction misleading or omissive conduct in this area, in order to protect both consumers and fair competition.

⁵⁸ Tribunale di Torino, Sez. Impresa, decreto 23 aprile 2024 n. 558/2024 – Provvedimento emesso ex art. 840-sexiesdecies c.p.c. in esito all’azione inibitoria collettiva promossa da associazioni consumatori contro Balocco S.p.A. (caso pandoro Ferragni). The Court declares the commercial practice to be unfair and orders that it not be repeated. Text and maxims available in *Giurisprudenza delle Imprese – Court of Turin* (published on October 21, 2024). See also the news item: “Ferragni-Balocco case, civil court confirms: unfair practice,” *La Fedeltà*, April 24, 2024.

⁵⁹ *Ibidem*.

2.5 Regulatory frameworks and authority guidelines (AGCM, FTC, DSA)

The phenomenon of influencer marketing, which initially emerged spontaneously on social media platforms, has received increasing attention from regulators in recent years, both nationally and internationally. Alongside the application of the general rules already examined (Consumer Code, prohibitions on misleading advertising, etc.), there has been a proliferation of specific initiatives, both in terms of soft law (guidelines, codes of conduct) and, in part, at the legislative level, aimed at framing and regulating the activities of influencers in a more targeted manner. Below we analyze the main regulatory and policy measures taken by the competent authorities in Italy and abroad, as well as the relevant European regulatory framework.

2.5.1 The Italian framework: the role of AGCM, AGCOM, and IAP self-regulation

In Italy, the first regulatory response came from the Italian Competition and Market Authority (AGCM), in the context of consumer protection from unfair practices. Back in 2017, the AGCM published informal guidelines (letters of moral suasion) to remind operators to comply with existing legislation on advertising on social media⁶⁰. This initial ‘soft’ approach led many influencers and companies to comply voluntarily (after the 2017 intervention, prominent influencers who were initially reluctant began to use #ad in sponsored posts). In 2019, the AGCM also signed a memorandum of understanding with the IAP (Institute of Advertising Self-Regulation) to coordinate their respective actions: it provides for cooperation in the exchange of reports and a sort of division of labor, leaving the IAP to deal with less serious cases as a priority (sanctioned with moral injunctions via the Control Committee) and reserving the AGCM for cases with greater impact or those not resolved by self-regulation⁶¹. This example of co-regulation anticipated a collaborative enforcement model, where self-regulation and public regulation act in synergy.

A significant legislative intervention then came with the transposition in Italy of the new Audiovisual Media Services Directive. Legislative Decree 208/2021 introduced into the

⁶⁰ AGCM, Moral suasion influencer 2017 – AGCM communication dated July 27, 2017 (Prot. 0054306) sent to influencers and companies, concerning “Invitation to comply with the ban on hidden advertising on Instagram.” Subsequently illustrated in AGCM Bulletin no. 31/2017. See the summary in English in the press release “Influencers abide to AGCM on clearly recognizable advertising on social media,” AGCM, September 6, 2017.

⁶¹Protocollo d’intesa AGCM – IAP del 26 aprile 2019, disponibile sul sito AGCM, sezione “Media > Eventi e Convegni > 2019”. The protocol provides for bilateral cooperation and the formation of a joint task force on digital advertising. For commentary, see A. Panzarola, “Soft Law and digital advertising: Antitrust teams up with IAP,” *Il Sole 24 Ore*, May 2, 2019.

Consolidated Law on Audiovisual Media Services (TUSMA) a number of provisions aimed at regulating digital platform operators, potentially including creators of online content of significant relevance (so-called large influencers). In implementation of European regulations (Directive 2018/1808/EU), the Italian Communications Authority (AGCOM), which is responsible for media matters, issued guidelines for influencer marketing, adopted by Resolution No. 7/24/CONS and entered into force in January 2024⁶². These guidelines identify the subjective scope of application in a rather restrictive manner: they apply only to “*digital creators*” with a significant impact who meet all of the following criteria: (a) at least 1 million followers in total across various platforms; (b) a publication frequency of at least 2 posts per month on average; (c) a minimum engagement rate of 2% in the previous 6 months⁶³.

These rules are therefore designed for mega-influencers, effectively excluding the myriad of small and medium-sized influencers, for whom only the general rules and any AGCM injunctions continue to apply⁶⁴. AGCOM imposes a series of editorial and conduct obligations on these large creators, who are considered by regulatory instruments to be comparable to media service providers, in line with those already in force for traditional media (TV, radio). In particular, influencers “monitored” by AGCOM must comply with fundamental principles regarding content: prohibition of incitement to hatred or violence, prohibition of obscene or seriously offensive content, protection of minors from inappropriate content, respect for intellectual property (no dissemination of protected material without authorization), and a reinforced obligation of advertising transparency⁶⁵. The AGCOM guidelines, in fact, reiterate the prohibition of hidden commercial communications and require influencers under their jurisdiction to clearly identify all promotional content. The use of clearly visible and understandable wording (similar to that already indicated by the AGCM/IAP) is required, and it is emphasized that each post for promotional purposes must be individually marked as such, even if the influencer has an ongoing sponsorship relationship with the brand⁶⁶. Furthermore,

⁶² AGCOM, Delibera n. 7/24/CONS – “Linee guida in materia di influencer marketing” (adottata il 19 gennaio 2024, in G.U. Serie Generale n.40 del 17-02-2024). Annex A of the resolution defines “influencers of relevance” as creators with at least 1,000,000 total followers, an average frequency of ≥ 2 posts/month, and engagement $\geq 2\%$. The guidelines specify that the activities of ordinary users and non-professional creators are excluded.

⁶³ Ibidem.

⁶⁴ Ibidem.

⁶⁵ AGCOM, Linee guida 2024, sez. II – Principi generali. The prohibition of incitement to hatred, respect for human dignity, protection of minors, protection of copyright, etc., is reiterated for the content of influencers subject to regulation. On this point, see also AGCOM Resolution No. 186/21/CONS (Regulation on the protection of online copyright), which is referred to in the guidelines to emphasize the anti-piracy obligations incumbent on creators.

⁶⁶ AGCOM, Linee guida 2024, sez. III – Obblighi specifici: “Influencers are required to make clear the promotional nature of any commercial communication by including text warnings superimposed on the visual content or specific statements in the first few seconds of any audiovisual content, which must be clearly legible and perceptible”.

AGCOM emphasizes compliance with sector-specific advertising bans: for example, influencers are also subject to bans on promoting tobacco, alcohol to minors, gambling without warnings, prescription drugs, and so on, in line with the rules that already apply to other media (Article 9 of the AVMS Directive)⁶⁷.

To monitor compliance with these rules, the law gives AGCOM very powerful sanctioning powers: violations of the obligations for relevant influencers can lead to fines of up to €5 million (in the most serious cases, such as failure to comply with orders to protect the audiovisual industry) and up to €250,000 for infringements such as failure to indicate the advertising nature of content⁶⁸. It should be noted that these sanctions affect the individual influencer as a “*media service provider*” (this is a different regime from the AGCM sanctions that affect the professional/sponsor).

The new structure thus establishes a double level of responsibility for top influencers: as media operators supervised by AGCOM and as commercial professionals subject to the Consumer Code and AGCM investigations⁶⁹. This coexistence of potential interventions implies a sort of co-regulation of the sector: high-profile influencers must comply with both AGCM rules (transparency towards consumers, unfair practices) and AGCOM rules (media standards and codes of conduct), under penalty of various types of sanctions.

To avoid duplication and uncertainty, the two authorities have initiated forms of coordination; for example, by law, AGCM must seek AGCOM’s opinion before sanctioning an unfair commercial practice disseminated through mass media, such as social media, in order to also take media profiles into account⁷⁰. At the same time, when defining its interventions, AGCOM considers the existence of any AGCM proceedings on the same facts, with a view to complementarity. In doctrine, there has been talk of a ‘double track’ which, if well managed,

⁶⁷ Direttiva (UE) 2018/1808 (AVMSD rivista), art. 28-bis e art. 9 - requires video platform providers to adopt mechanisms for users to report the presence of advertising in uploaded videos; it also prohibits commercial communications relating to tobacco, firearms, prescription drugs, and other restrictions (e.g., alcohol: no excessive encouragement, no targeting of minors). These rules apply directly if the influencer is considered an “audiovisual media service provider” (a rare but possible case for YouTubers with structured channels).

⁶⁸ D.Lgs. 208/2021, art. 41 - It provides for fines of up to €50,000 for violations of transparency obligations on video sharing, but for relevant influencers, AGCOM has raised the maximum limits (using the framework set out in Article 51 of TUSMA). With Resolution 7/24 CONS, Article 4, AGCOM establishes gradual penalties: a maximum of €250,000 for violations of obligations “of transparency and fairness in commercial communication” and a maximum of €5,000,000 for serious and systematic violations (in line with the powers granted by Article 41, paragraph 10 of TUSMA).

⁶⁹ Ibidem.

⁷⁰ Direttiva (UE) 2019/2161 (cd. Direttiva Omnibus), art. 1(12) e (13) - amended, among others, Article 27 of the Consumer Code, introducing a new penalty system of up to 4% of turnover or €2 million (now increased to €10 million by the Italian legislator) for unfair commercial practices. Transposed in Italy by D.Lgs. 26/2023. See Article 27, paragraph 9 of the Consumer Code as currently in force.

does not violate the *ne bis in idem* principle but rather strengthens protection on different fronts⁷¹.

Finally, it should be noted that in 2023–2024, AGCOM further developed this approach by adopting a Code of Conduct for influencers, in collaboration with trade associations. In November 2024, with Resolution No. 197/25/CONS, AGCOM approved a code detailing ethical rules and good practices that influencers, even those not falling within the above quantitative criteria, are invited to comply with, also establishing a public register of relevant influencers⁷². These instruments, similar to codes of conduct provided for by European law, aim to involve operators themselves in a more conscious compliance with the rules and to fill certain gaps through self-regulation promoted by the Authority.

This is a further sign of growing regulatory attention: from the absence of specific rules, we have moved to a multi-level framework in which laws, administrative authorities, and self-regulation converge in regulating influencer marketing.

2.5.2 Guidelines and enforcement in the United States (FTC) and the United Kingdom (ASA)

At the international level, the approaches adopted in other jurisdictions deserve attention, both to understand global trends and because influencers and companies often operate on transnational platforms.

In the United States, the matter is mainly regulated by the Federal Trade Commission (FTC), the federal agency for consumer protection and competition. Since 2009, the FTC has issued specific Endorsement Guides aimed at clarifying how material relationships between those promoting a product and the advertiser should be disclosed⁷³. These guidelines, which are periodically updated and were last revised in 2023, establish principles very similar to those

⁷¹ Tribunale di Torino, Sez. Impresa, decreto 23 aprile 2024 n. 558/2024 – Provvedimento emesso ex art. 840-sexiesdecies c.p.c. in esito all’azione inibitoria collettiva promossa da associazioni consumatori contro Balocco S.p.A. (caso pandoro Ferragni). The Court declares the commercial practice to be unfair and orders that it not be repeated. Text and maxims available in *Giurisprudenza delle Imprese – Court of Turin* (published on October 21, 2024). See also the news item: “Ferragni-Balocco case, civil court confirms: unfair practice,” *La Fedeltà*, April 24, 2024.

⁷² AGCOM, Delibera n. 197/25/CONS (29 novembre 2025) – “Modifiche alle linee guida di cui alla delibera n. 7/24/CONS e approvazione del Codice di condotta rivolto agli influencer”. The Code of Conduct, drafted by a technical committee comprising platforms and influencer representatives, contains ethical commitments and establishes a public list of participating influencers. Commentary article: M. B. Galletti, “The new AGCOM guidelines on influencers – summer 2025,” *Martini Manna blog*, July 30, 2025.

⁷³ Federal Trade Commission, 16 CFR Part 255 – “Guides Concerning the Use of Endorsements and Testimonials in Advertising.” Guidelines originally adopted in 1980, updated in 2009 and most recently in 2023 (88 Federal Register 48001, July 21, 2023). Available on the FTC website: <https://www.ftc.gov>. The guides do not have the force of law but indicate how the FTC interprets Section 5 of the FTC Act on deceptive conduct.

seen so far: whenever an endorser (in our case, the influencer) has a material connection with a brand (payment, gift, professional relationship, company shareholding, etc.), this must be clearly and prominently disclosed in the content in which the endorser expresses opinions or displays the product⁷⁴. Videos must also contain a verbal or superimposed warning at the beginning, and for live content, the warning should be repeated periodically. Each platform allows specific forms (e.g., on YouTube, there is the indication “Includes paid promotion”): the important thing for the FTC is that the average consumer is not confused and understands without a doubt when content is sponsored. The FTC also emphasizes that the disclosure must clearly refer to each individual piece of sponsored content: it is not enough, for example, for the influencer to write “Ambassador for brand X” in their bio, because each post must in turn indicate whether it is an endorsement for X⁷⁵.

Another principle of the American guidelines is that any type of compensation or benefit triggers the disclosure obligation: if an influencer receives a free product, a free trip, a special discount code, or a commission on sales (affiliate marketing), these elements are considered “material connections” that must be disclosed, just like a cash payment. The US approach, therefore, makes no distinction between monetary payment and other forms of incentive: this is broadly in line with EU law (see above, the notion of “*any advantage, even non-economic, given to the influencer*” as a trigger for the transparency obligation).

From an enforcement perspective, the FTC has the power to prosecute unfair and deceptive commercial practices under Section 5 of the FTC Act.

In recent years, there have been a number of measures concerning influencer marketing: for example, in 2016, the FTC sanctioned the Lord & Taylor chain of stores for failing to disclose that dozens of influencers on Instagram had been paid to wear a certain dress (none of the posts included disclosure)⁷⁶. In that case, the action ended with a consent order (a settlement agreement) in which the company agreed not to repeat the violation. In fact, US practice often aims to obtain injunctions and corrective measures rather than immediate financial penalties:

⁷⁴ FTC Endorsement Guides 2023, §255.5 Disclosure of Material Connections. Practical examples provided in the FTC FAQs (published online): for example, “#advertisement” or “#ad” clearly visible at the beginning of the post are considered adequate disclosures, while “#ambassador,” “#sp,” or “Thanks [brand]” at the end of the post are not considered sufficiently clear. See FTC, “Disclosures 101 for Social Media Influencers” (Nov. 2019).

⁷⁵ Ibidem.

⁷⁶ FTC v. Lord & Taylor LLC (2016) – Case No. 16-cv-09091, U.S. District Court for the District of Columbia. Lord & Taylor paid 50 fashion influencers to post photos wearing the company's clothing on Instagram, without asking them to disclose the compensation. The consent order requires the company to ensure clear disclosure in future campaigns and not to misrepresent the nature of the endorsements. See FTC Press Release, March 15, 2016.

finances come into play if the company violates an FTC order or specific regulatory provisions. The FTC has also sent warning letters to numerous influencers and celebrities (in 2017, more than 90 were sent in a single batch), reminding them of their disclosure obligations in online reviews⁷⁷. In some cases, when influencer marketing involves sensitive products (e.g., dietary supplements with health effects), the FTC has collaborated with other authorities (such as the Food and Drug Administration) to crack down on misleading advertising promoted by influencers⁷⁸.

Overall, the US approach combines clear guidelines for the industry with case-by-case monitoring and intervention by the FTC, often aimed at setting precedents and contractually committing companies to comply with the rules (through consent agreements). It should also be noted that private litigation is on the rise in the US: a number of class actions have been brought by consumers against brands and influencers found guilty of hidden endorsements or deceptive practices (particularly in the slimming and financial products sectors, etc.)⁷⁹.

This adds an additional level of risk for those who violate the rules, similar to what we have seen with consumer class actions in Europe.

In the UK, influencer marketing is regulated by a mixed system of legal rules and co-regulation entrusted to the Advertising Standards Authority (ASA). The general law (Consumer Protection from Unfair Trading Regulations 2008, the British equivalent of our transposition of the Unfair Practices Directive) prohibits misleading practices and requires advertising to be recognizable. At the same time, the CAP Code (UK Code of Non-broadcast Advertising and Direct Marketing, self-regulatory codes) specifically stipulates that commercial communications must be recognizable and not hidden (Rule 2.1 CAP Code)⁸⁰.

⁷⁷ FTC Press Release, “FTC Staff Reminds Influencers and Brands to Clearly Disclose Relationship,” April 19, 2017. Refers to the sending of over 90 educational letters to influencers and brands, and anticipates future compliance actions. Subsequently, in September 2017, the FTC sent another 21 follow-up letters to specific influencers asking for responses regarding their disclosure practices.

⁷⁸ FTC – Teami Inc. (2020) – case against a slimming tea company and several celebrities (Cardi B, etc.) who promoted its products on Instagram without disclosure and with unproven health claims. In an out-of-court settlement, the company paid \$1 million and the influencers involved had to explicitly declare the sponsored posts. See FTC Press Release, March 6, 2020.

⁷⁹ In the US, for example, a class action lawsuit was filed in 2021 against TikTok and several influencers for hidden promotion of cryptocurrencies (*Mosqueda v. TikTok, California*), accusing the platform and creators of failing to warn followers about the advertising nature of videos on digital tokens – a case reported in P. Thibodeau, “Influencer Marketing Class Actions Are Trending,” *Benesch Law*, July 14, 2021. These actions often use state laws on misleading advertising and seek collective compensation.

⁸⁰ British Code of Non-Broadcast Advertising Practice (CAP Code), 12th edition (in force since 2010, with updates). Section 2 (Recognition of commercial communications) requires promotional material to be clearly identifiable as such. In particular, Rule 2.1: “Marketing communications must be clearly identifiable.”

The ASA, an independent body funded by the advertising industry, monitors compliance with the CAP Code, including on social media. Since 2018, the ASA has published guides and warnings for influencers, including the document “*An Influencer’s Guide to making clear that ads are ads*”⁸¹. This guide, drafted in coordination with the Competition & Markets Authority (CMA, the UK antitrust authority), reiterates advice similar to that of the FTC Guides: use hashtags such as #Ad at the beginning of sponsored posts, avoid ambiguous wording (#sp, #spon that consumers may not understand), and not relying solely on solutions that are not very visible (such as writing “*thanks to [brand]*” at the bottom of the post, which is considered insufficient)⁸².

For its part, in 2019, the CMA obtained formal commitments from a number of British celebrity influencers, who agreed, under threat of legal action, to always declare paid posts⁸³. The ASA has the power to investigate individual cases, including those reported by the public, and, if it considers a rule to have been violated, issues decisions ordering the cessation or modification of the advertising. Its decisions are published and may include a warning not to repeat the behavior. Although it cannot directly impose fines, the ASA can implement much-feared reputational sanctions (naming and shaming): for example, it has set up a web page listing repeat offenders who do not comply with the rules until they do so, and can ban them from accessing certain advertising tools on platforms⁸⁴. In addition, the ASA can refer the most serious cases to the CMA, which has stronger enforcement powers: it can ask a court to impose sanctions or binding injunctions. In 2021, the ASA conducted a comprehensive monitoring of Instagram, finding a high rate of lack of clarity in influencer ads, and threatened more incisive action, after which it actually took action against some well-known figures⁸⁵.

⁸¹ ASA, “Guide for influencers to make clear that advertisements are advertisements” (2018). Practical guidelines published by the Advertising Standards Authority in collaboration with the CMA. Available in PDF format on the ASA website (<https://www.asa.org.uk>). It illustrates various scenarios (sponsored posts, affiliations, gifting) and how to label them correctly: for example, it recommends using #Ad at the beginning of the content.

⁸² Ibidem.

⁸³ CMA, “Social Media Endorsements: Guide for Influencers” (gov.uk, 2020). In January 2019, the Competition & Markets Authority obtained legal commitments from 16 celebrities (including Rita Ora and Ellie Goulding) to declare posts on social media that involve a commercial relationship. The CMA subsequently published guidelines for influencers in September 2020 on the UK government website, explaining how to comply with UK law (similar recommendations: use #Ad, etc.).

⁸⁴ In June 2021, the ASA created a page called “Non-compliant social media influencers” listing influencers who, after warnings, continued to violate disclosure rules. Among the names were some former British reality TV contestants. This naming and shaming publicly exposes non-compliant individuals until they provide assurances of compliance. (Source: ASA News, June 30, 2021, “ASA publishes list of non-compliant influencers”).

⁸⁵ ASA, “Influencer Ad Disclosure on Social Media: Instagram” (Report, March 2021) – in a monitoring of 122 influencers on Instagram, the ASA found that only 35% of posts that were clearly advertising were adequately labeled as such. Following the report, the ASA announced more vigorous action. (Summary report on the ASA website).

In summary, the British approach focuses heavily on preventive clarity (guides, practical advice) and a strengthened self-regulation mechanism (ASA+CMA), which is yielding results: numerous UK influencers have changed their habits, and today the use of #ad is established practice, at least for more structured collaborations.

2.5.3 European Union Law and Commission initiatives

At EU level, influencer marketing is not, yet, subject to specific legislation, but falls within the scope of various existing regulations on consumer protection and digital services. As already mentioned, the subject is mainly covered by Directive 2005/29/EC on unfair commercial practices (UCPD), from which the transparency obligations transposed into national consumer codes derive.

In 2021, the European Commission published a Guidance Communication on the application of Directive 2005/29/EC, dedicating an entire section to influencer marketing (section 4.2.6)⁸⁶. In these guidelines, the Commission reiterated that influencers acting “*in the course of their business*” (i.e., in a professional and regular manner) are to be considered professionals/traders within the meaning of the Directive, and that their promotions integrated into online editorial content must comply with the prohibitions on surreptitious advertising (Article 7 of the Directive, corresponding to Article 22 of the Consumer Code, and point 11 of Annex I to the Directive). The Commission also points out that any “commercial connection” (payment, discounts, free provision of products, participation in affiliate programs, etc.) is an element that must be disclosed: failure to indicate commercial intent constitutes a misleading practice by omission within the meaning of Article 7, §2, as well as a violation of Annex I No. 11 (advertising disguised as editorial content)⁸⁷. It is also clarified that both parties, the influencer and the beneficiary company, can be held liable for an unfair practice: the influencer as a professional acting (if they meet the criteria to be qualified as such, i.e., habituality and economic purpose), and the brand as the “*person on whose behalf the commercial action is carried out*” (Article 2(b) of the Directive)⁸⁸. For the purposes of brand liability, it is not necessary for the brand to exercise editorial control over the content: even in the absence of

⁸⁶ EU Commission – Communication 2021/C 526/01 (Guidelines on the Unfair Commercial Practices Directive), paragraph 4.2.6 “Influencers and blogs.” Published in OJEU C 526 of 12/29/2021. It explains the application of Articles 6, 7, and Annex I of Directive 2005/29/EC to influencer marketing, with practical examples.

⁸⁷ Ibidem.

⁸⁸ Ibidem.

direct control, the commissioning company may be liable if it benefits from hidden promotion contrary to professional diligence⁸⁹.

This passage is important because it affirms a principle of joint responsibility that is not explicitly written into national laws: in practice, the endorser and the client are on the same footing when it comes to the prohibition of misleading advertising.

Alongside the rules on unfair practices, in 2018 the EU legislator updated the Audiovisual Media Services Directive (AVMSD) precisely to take account of new online phenomena. Directive (EU) 2018/1808 extended certain rules from the broadcasting sector to video-sharing platforms (e.g., YouTube, Instagram in part, TikTok), imposing obligations on both platforms and users who upload videos. In particular, Article 28-bis AVMSD requires Member States to ensure that platforms oblige their users to declare whether uploaded content contains commercial communications⁹⁰. In addition, the directive strengthens content prohibitions (banning commercial communications relating to tobacco, certain alcoholic beverages, prescription medicines, and categories of products or practices that are dangerous to health and safety on all platforms) and promotes co-regulation and self-regulation in sensitive areas (e.g., advertising of unhealthy foods to minors).

These provisions were transposed in Italy by the aforementioned Legislative Decree 208/2021 (TUSMA), which provided the legal basis for AGCOM's intervention.

Other EU countries have adopted similar approaches: for example, France, with Loi n° 2023-451 "*Influenceurs et produits numériques*" of June 2023, introduced specific regulations on influencers, prohibiting them from promoting certain categories of products (such as cosmetic surgery, unauthorised betting, etc.), obliging them to declare "advertising" in the case of sponsored content and requiring them to enter into a written contract with the company for each paid collaboration⁹¹. French law has also established a public register of influencers and

⁸⁹ Ibidem.

⁹⁰ Direttiva (UE) 2018/1808 (AVMSD rivista), art. 28-bis e art. 9 - requires video platform providers to adopt mechanisms for users to report the presence of advertising in uploaded videos; it also prohibits commercial communications relating to tobacco, firearms, prescription drugs, and other restrictions (e.g., alcohol: no excessive encouragement, no targeting of minors). These rules apply directly if the influencer is considered an "audiovisual media service provider" (a rare but possible case for YouTubers with structured channels).

⁹¹ Loi n° 2023-451 du 9 juin 2023 visant à encadrer l'activité des influenceurs – G.U. Fr. 10/06/2023, as modified by Ordonnance n° 2024-979 du 13 nov. 2024. The law defines "commercial influencers" and requires them to indicate the advertising nature of their content (with the words 'Advertisement' or "Commercial collaboration" superimposed), prohibits the promotion of certain products/services (e.g., artificial tanning, cosmetic surgery without medical advice, etc.), and requires written contracts between influencers and brands with various mandatory clauses. Penalties of up to two years' imprisonment and a €300,000 fine are provided for violations.

provides for penalties of up to €300,000 and two years' imprisonment for serious violations (e.g., hidden promotion of prohibited products)⁹². This pioneering intervention demonstrates the tendency of some Member States to legislate ad hoc on the phenomenon, going beyond the general EU rules alone.

At the same time, the new Digital Services Act (Regulation (EU) 2022/2065), applicable from 2024, has been introduced. Although it does not directly regulate influencer marketing, it introduces general obligations for online platforms regarding advertising transparency⁹³. In particular, Article 26 of the DSA requires all online platform providers (e.g., social networks) to ensure that users are clearly informed when they view a digital advertisement: this includes the obligation for the platform to make visible an indication that the content is sponsored, to disclose the identity of the entity on whose behalf the advertisement is displayed, and to provide the user with a way to understand why that specific advertisement was shown to them (targeting criteria)⁹⁴. These provisions obviously apply to the platform as such and typically to paid advertising spaces managed by the platform (such as Facebook Ads, etc.). However, by extension, platforms are implementing tools that also help creators comply with these requirements: for example, Instagram and TikTok already offer the “*Branded Content*” or “*Paid Partnership*” feature, which automatically adds a sponsorship label to the influencer’s post. In short, the DSA increases the responsibility of platforms to promote transparency and provides for control mechanisms, including audits, on their actions in this regard⁹⁵. For influencers, this means that the regulatory ecosystem is pushing social media providers to make the use of integrated disclosure tools increasingly easy, or even mandatory. In addition, the DSA encourages the establishment of codes of conduct agreed between platforms, advertisers, and other stakeholders to ensure better standards of online advertising transparency⁹⁶. It is likely that these codes, to be developed in the coming years at the European level, will also affect the influencer marketing sector, integrating the rules already discussed.

⁹² Ibidem.

⁹³ Regulation (EU) 2022/2065 “Digital Services Act,” Art. 26 – Requires online platform providers to ensure that advertisements are clearly identified as such, with an indication of their origin (who financed the advertisement) and information on the use of data for targeting. This obligation applies to all platforms (not only VLOPs) and is directly applicable in Member States from February 17, 2024.

⁹⁴ Ibidem.

⁹⁵ Ibidem.

⁹⁶ Art. 45 DSA – provides for the development of codes of conduct at Union level on a range of issues, including online advertising and the protection of minors. The EU Commission has encouraged stakeholders (platforms, advertisers, etc.) to develop voluntary codes on transparent and responsible advertising by February 2025, which could include sections dedicated to influencer marketing (source: EU Commission Q&A on DSA, Sept. 2022).

Finally, in 2023, the European Commission launched a consultation as part of an initiative called the “*Digital Fairness Act*,” aimed at assessing the need for further regulatory action to protect consumers in the digital economy. Among the topics under consultation are “*harmful practices by influencers on social media*”, with reference to both hidden advertising and the promotion of harmful or unsafe products⁹⁷. This suggests that, in the future, we may see more specific measures at EU level: for example, the introduction of an explicit obligation of joint responsibility between influencers and businesses for misleading commercial communications, or common guidelines for transparency on all platforms.

At present (2025), there is still no concrete legislative proposal, but the European institutions are paying close attention and regulatory developments should be monitored closely.

The analysis shows that influencer marketing, despite its originality and fluidity, does not operate in a legal vacuum but is subject to a variety of rules and controls. The contractual relationship between influencers and companies falls within the general principles of civil law (negotiating autonomy but with obligations of good faith, liability for breach, etc.), although it has specific characteristics that make it an atypical contract that is now fairly standardised in practice.

On an extra-contractual level, the need to protect consumers and the market has led to the strict application of advertising transparency rules: the prohibition of hidden advertising and the repression of deceptive practices extend fully to new forms of digital communication, thanks to both jurisprudential and regulatory adaptation.

The authorities (AGCM, AGCOM, foreign counterparts such as the FTC and ASA) have taken an active role, issuing guidelines, monitoring the phenomenon, and sanctioning misconduct. The contractual autonomy of the parties allows them to anticipate and manage many of these risks through ad hoc clauses in contracts (from moral clauses to indemnities), but does not exempt them from complying with mandatory rules designed to protect higher interests (consumers, economic public order).

Finally, a constantly evolving system is taking shape, in which co-regulation and targeted legislative interventions are filling in the gray areas: technological evolution (think of avatar influencers, the use of generative AI in content, etc.) constantly poses new challenges, to which the law will seek to respond while maintaining the fundamental principles of transparency, fairness, and responsibility in commercial communications, regardless of the medium and the protagonists through which they are disseminated.

⁹⁷ EU Commission – Communication 2021/C 526/01 (Guidelines on the Unfair Commercial Practices Directive), paragraph 4.2.6 “Influencers and blogs.” Published in OJEU C 526 of 12/29/2021. It explains the application of Articles 6, 7, and Annex I of Directive 2005/29/EC to influencer marketing, with practical examples.

Chapter 3

The influencer as a brand and co-branding partner

3.1 The concept of personal branding and its functions

Personal branding has emerged as one of the most studied areas of contemporary branding, applying traditional brand principles to individuals. According to Ostillio (2020), personal branding can be defined as “a process through which individuals and entrepreneurs differentiate themselves and stand out from the crowd by identifying and articulating their value proposition as unique, [...] and then exploiting it through different methods aimed at building a consistent image to achieve a specific goal”⁹⁸.

In other words, influencers who have evolved into personal brands apply self-marketing strategies to position themselves in the market, improve professional opportunities, and build a distinctive reputation. Social media has accelerated this phenomenon, enabling amplified forms of self-promotion that have created the boom in influencer marketing/branding. Below, we examine the main functions and dimensions of personal branding, similar to those of corporate brands, highlighting key concepts such as brand awareness, brand image, brand association, brand recognition, and brand recall, which are fundamental for assessing the value of a personal brand.

- *Brand Awareness*: indicates the degree of knowledge of the brand by the public. In the case of a personal brand (influencer), awareness measures how many consumers recognize and know who the influencer is and what they represent. Two fundamental components of awareness are brand recognition and brand recall. Brand recognition occurs when the public, upon seeing a distinctive element (e.g., the influencer’s name or logo), immediately recognizes who it is. Brand recall, on the other hand, is the public's ability to independently remember the influencer’s name as a brand, for example, when thinking of a category (e.g., fashion influencer) and that name comes to mind. A personal brand with high awareness will have both high stimulus recognition and high spontaneous recall.

These metrics are crucial: a well-known influencer enjoys a communicative advantage, as the messages they spread start from an already established baseline of notoriety.

- *Brand Image and Brand Association*: the brand image of a personal brand is the set of perceptions, opinions, and mental images that the public associates with that person-

⁹⁸ Keller, Kevin, Bruno Busacca, e Maria Carmela Ostillio. *La gestione del brand: strategie e sviluppo*. EGEA spa, 2021.

brand. In practice, it answers the question: what does that name mean to the public? And what values or characteristics does it evoke? Brand associations are the specific links that consumers attribute to the personal brand, for example, a particular lifestyle, certain qualities, or values. In the case of influencers, these associations derive from their storytelling, the type of content they publish, their personal style, and the values they embody. A strong personal brand image is built by offering a consistent and distinguishable image over time.

For example, Chiara Ferragni is associated with a glamorous, modern, and fashion-oriented lifestyle; her brand, *Chiara Ferragni Brand*, conveys creativity, youth, and aspiration. Doxa research (2021) confirms that the public associates the Ferragni brand with concepts of contemporary elegance and innovative trends, reinforced by collaborations with luxury brands and the influencer's presence at prestigious events.

In summary, an effective personal brand develops positive associations that are aligned with its positioning (e.g., authenticity, competence, aspirational lifestyle), which fuel its brand image among fans and consumers. It should be noted that the strategic alignment of associations is crucial: an influencer focused on fitness and wellness will want to be associated with health, positive energy, and reliability, avoiding dissonance (e.g., they will not sponsor products that are incompatible with these values). Strong brand associations increase the value of the personal brand because they act as cognitive shortcuts: when the audience sees the influencer, they immediately recall those values and attributes, facilitating effective communication. A personal brand with high equity offers greater symbolic added value both to the public (in terms of trust and preference) and to potential business partners⁹⁹.

In addition to awareness and image, other functions of personal branding mirror those traditionally associated with product branding. For example, the brand performs an identification function (it allows the individual to be immediately identified and differentiated from other competitors in the media space) and a guarantee function (it ensures consistent quality of the content/experiences associated with that influencer, acting as an “uncertainty reducer” for the audience). There is also a characterization function: consumers “choose” an influencer also to communicate their own image or values, following a certain influencer reflects and reaffirms the identity or aspirations of the follower. Finally, just as commercial brands can offer hedonistic experiences, personal brands also have a hedonistic and emotional

⁹⁹ Doxa. (2021). Chiara Ferragni – Brand awareness data., 2021.

dimension: the carefully crafted aesthetics of the personal image, the tone of voice, and the lifestyle shown produce engagement and emotional attachment in followers. In short, influencers as brands activate a relationship of symbolic loyalty with their audience, similar to that of traditional brands, based on recognition, trust, and shared values¹⁰⁰.

3.2 The evolution from person to brand: the influencer as a communicative and economic resource

Influencers who successfully build their personal brand become, to all intents and purposes, a living brand, endowed with equity and capable of transferring value to the products or companies they collaborate with. From an individual with a simple audience, the influencer who has evolved into a brand acquires a status similar to that of a media company: they have a loyal audience, a set of perceived values, distinctive symbols, and credibility earned over time. This gives the influencer considerable communicative value: the messages conveyed through them gain attention and trust that is difficult to match with traditional advertising, thanks to the para-social relationship established with their followers. In addition, the influencer-brand can extend its presence across multiple platforms (Instagram, YouTube, TikTok, blogs, public events), acting as an integrated and flexible media channel.

At the same time, personal branding also generates economic value. First of all, influencers monetize their brand through activities such as sponsorships, advertising, and the sale of their own branded products. For example, Chiara Ferragni, one of the first influencers to become an entrepreneur, did not limit herself to promoting other brands, but successfully launched product lines under her own name (clothing, accessories, cosmetics), building an independent and recognizable brand. This shows how a strong personal brand can generate new direct revenue streams (royalties, merchandising sales, paid participation in events, etc.) in addition to income from traditional commercial partnerships.

Globally, there are now numerous cases of influencers who have been able to extend their visibility and transform it into economic empires: just thinking about personalities such as Rihanna with her *Fenty Beauty*, Kim Kardashian with *SKIMS* and Kylie Jenner with *Kylie Cosmetics*. These figures demonstrate how influencer-brands can become entrepreneurs in their own right, creating value both for themselves and for their partner companies.

¹⁰⁰ 17 Kapferer, Jean-Noel. *The new strategic brand management: Creating and sustaining brand equity long term*. Kogan Page Publishers, 2008.

One of the key aspects of the communicative value of influencers as a brand is the trust and authenticity perceived by the public. Successful influencers know how to cultivate a direct and authentic relationship with their followers, who often perceive them as closer and more credible than traditional testimonials. This trust translates into engagement: often high interaction rates (likes, comments, shares), which indicate an engaged audience.

For example, Chiara Ferragni, with her approximately 29 million followers on Instagram, has an engagement rate of around 1.5%, which in absolute terms means hundreds of thousands of interactions per post. Such mass engagement represents a formidable channel for companies to generate digital word of mouth and media amplification. In practice, the influencer is both the medium and the message: they lend their voice and style to third-party brand communication, making campaigns more human and closer to the target audience¹⁰¹.

Ranking	Influencer	Num. Follower (Mln)	Following	Post	Engagement rate
1	Georgina Rodriguez	62	1.059	925	5,07%
2	Hailey Rhode Baldwin Bieber	53	941	634	2,35%
3	Kathryn Bernardo	21	1.604	2.611	2,02%
4	Barbara Palvin	20	355	1.962	1,74%
5	Gisele Bundchen	23	0	579	1,61%
6	Zendaya	182	0	3.493	1,61%
7	Chiara Ferragni	29	2.236	17.146	1,47%
8	Urassaya Sperbund	13	596	3.521	1,21%
9	Gigi Hadid	78	1.529	3.390	1,16%
10	Emily Ratajkowski	30	1.275	1.357	0,96%

Figure 8: Ranking Influencer for fashion market¹⁰²

From an economic point of view, collaborating with an influencer-brand can bring tangible benefits to businesses. First of all, in terms of brand equity transfer: associating with a well-known influencer allows a company to inherit part of their equity (notoriety, positive image, appeal to certain consumer segments). In addition, influencers can act as awareness multipliers for new or little-known products or brands, serving as a springboard. The market value of an influencer-brand is also reflected in the fees they charge: mega-influencers can earn high sums

¹⁰¹ Not Just Analytics, *Ranking Influencer Fashion*, 18 October 2024.

¹⁰² Not Just Analytics, *Ranking Influencer Fashion*, 18 October 2024.

for individual campaigns or annual contracts as brand ambassadors, precisely because their personal brand is an established communication asset. Industry studies and research confirm that mega-influencers (e.g., those with millions of followers) guarantee brands a strong boost in awareness in the short term, although this does not always translate into immediate conversions. Conversely, micro-influencers with smaller but more targeted audiences can generate even greater engagement and trust in specific niches. This highlights that the communicative value of an influencer goes beyond mere audience size, including audience quality and positioning consistency.

Finally, an established influencer-brand often becomes a strategic partner for companies in co-developing products, collections, or campaigns. In these cases, the influencer is not just an advertising vehicle, but a true co-creator of value: they make their knowledge of the audience, their style, and trend-setting available, helping to develop offers tailored to market expectations. The evolution from person to brand therefore reaches its peak when the influencer actively participates in the branding and marketing choices of partner companies, establishing ongoing collaborative relationships (e.g., capsule collections signed by the influencer, guest creative director roles, etc.). In such partnerships, as we will see, the influencer becomes a co-branding partner, lending not only their face but also their personal brand in the literal sense to create shared products or campaigns.

3.3 The dynamics of co-branding between influencers and companies

Co-branding refers to a strategic alliance between two or more well-known brands that are presented together to consumers, generating a new (or perceived as such) offering thanks to the synergy between the brands involved. In other words, it is an operation in which two brands join forces on a product, service, or campaign, sharing names, logos, and reputation in order to create greater value together than they could achieve separately. In the case of an influencer as a co-branding partner, their personal brand is paired with the company's brand on a specific project (e.g., a limited-edition product, a capsule line, or a co-sponsored event). In fact, the term *influencer brand* is also used to refer to the influencer's personal brand when it takes on the same relevance as a commercial brand. Such initiatives are fully in line with co-branding strategies, in which the influencer brand often acts as a guest brand that enriches the company's offering with its own added value¹⁰³.

¹⁰³ Keller, Kevin, Bruno Busacca, e Maria Carmela Ostillio. *La gestione del brand: strategie e sviluppo*. EGEA spa, 2021.

Co-branding dynamics with influencers arise from specific market needs. In today's highly competitive environment, characterized by distracted and disloyal consumers and rapidly changing trends, companies are constantly looking for ways to differentiate themselves and capture attention. In this scenario, influencers represent vehicles of immediate resonance for brands: their presence brings novelty and visibility to even mature or traditional products. Co-branding with influencers is therefore often motivated by the desire to: relaunch a product by targeting new audiences, rejuvenate the brand image by associating it with fresh faces and trendsetters, access specific targets (e.g., young digital natives) where the influencer enjoys credibility, and increase overall brand awareness thanks to the influencer's fanbase. Although, a key objective is to increase the perceived value of the offer: a product co-branded by a prestigious influencer can justify a higher price and position itself as exclusive.

Co-branding is based on the concept of synergy: each partner contributes its brand equity (reputation, image, distinctive skills) so that the collaboration produces a result where $1+1=3$, i.e., a value greater than the sum of the individual contributions. In the case of an influencer and a company, the synergy typically consists of combining the media and symbolic power of the influencer (ability to engage the public, trend awareness, cool factor) with the company's production and distribution resources (ability to physically manufacture products/services and bring them to market). When this union is well calibrated, the benefits are mutual: the company sees an increase in sales, visibility, and image freshness; the influencer consolidates their credibility, monetizes their brand, and often expands their audience by reaching consumers who may not have been their followers originally.¹⁰⁴

It is important to emphasize that every co-branding operation should respond to clear strategic objectives shared by the partners. Some typical advantages include:

- Increased sales and market share: by collaborating, brands can attract each other's customers, expanding their market penetration. For example, a fashion manufacturer that co-signs a line with an influencer reaches the latter's fans, potentially converting them into buyers.
- Improved brand image and associations: the company can acquire the influencer's positive attributes (e.g., modernity, sustainability, creativity) and transfer them to its

¹⁰⁴ Keller, Kevin, Bruno Busacca, e Maria Carmela Ostillio. *La gestione del brand: strategie e sviluppo*. EGEA spa, 2021.

own brand. At the same time, the influencer can benefit from the aura of the corporate brand (e.g., luxury, craftsmanship) and increase their own authority.

- Access to new markets or segments: co-branding can facilitate entry into new product categories by leveraging the partner's expertise. A classic example is a beauty influencer launching a capsule collection of makeup with a company in the sector: the company provides the production know-how, while the influencer guarantees appeal to the young trendsetter target audience.
- Increased perceived value and pricing power: as mentioned, co-branded products are perceived as "special" and exclusive, often in limited editions. Consumers, seeing two well-known brands together, recognize added value and are willing to pay a premium price. For example, if a luxury brand collaborates with an influencer, the resulting product can be sold at a higher price because it combines the luxury reputation of the former with the popularity of the latter. On a psychological level, the scarcity lever also comes into play: the limited and one-off nature of many collaborations instills a sense of urgency to purchase and collectible value (as Sacchi (2016) notes, "*the indiscreet charm of scarcity*" means that limited editions and rare products attract disproportionate interest compared to their intrinsic utility). This is evidenced by cases where gadgets or products co-signed by celebrities become cult objects resold at exorbitant prices on the secondary market.

Chiara Ferragni is a perfect example to explain it: the strength of the *Chiara Ferragni brand* can be assessed using classic branding analysis parameters. In terms of brand awareness, it is extremely well known: a 2021 Doxa survey shows that her name and brand are widely known not only in Italy but also abroad, particularly in China, where she enjoys popularity that goes beyond the fashion niche.

The data on brand recognition and recall are equally significant: in Italy, 51% of the sample is able to recognize the brand solely through the iconic blue eye logo, with values of 10% in the United States and 20% in China. When the logo is associated with the name Chiara Ferragni, the percentages increase significantly (69% in Italy, 17% in the United States, 50% in China)¹⁰⁵.

¹⁰⁵ Doxa. (2021). Chiara Ferragni – Brand awareness data.



Figure 7: Chiara Ferragni – Preference among knowers and followers¹⁰⁶.

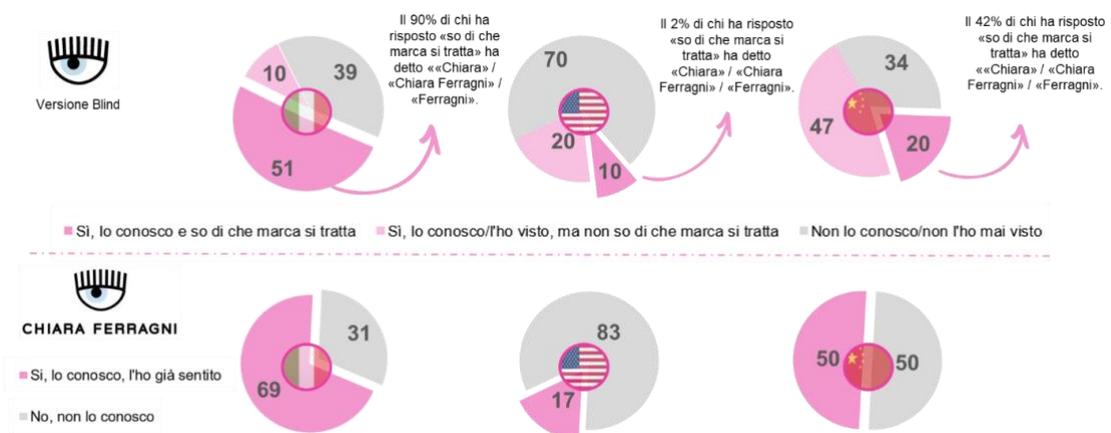


Figure 8: Brand recall and Brand recognition of Chiara Ferragni's brand and its logo¹⁰⁷

The analysis of brand image and brand association shows that Ferragni is associated with values of modernity, glamour, creativity, and aspiration. Her brand is perceived as young, innovative, and linked to a contemporary lifestyle, thus strengthening its ability to transfer symbolic capital to partner brands.

Of course, alongside the advantages, co-branding also involves risks and requires alignment: the two brands must be compatible in terms of values and audience, otherwise the collaboration may not be credible. Furthermore, the reputation of each partner becomes interdependent: any crises affecting one of the two may have repercussions on the other. Companies must therefore carefully weigh the trade-off between commercial benefits and possible reputational risks when choosing to link their name to that of an influencer (especially if the latter is known for controversial or unpredictable behavior) A prime example of co-branding between an influencer

¹⁰⁶ Doxa. (2021). Chiara Ferragni – Brand awareness data

¹⁰⁷ Doxa. (2021). Chiara Ferragni – Brand awareness data.

and an Italian company is the collaboration between Chiara Ferragni and Balocco, known for launching the *Pink Christmas Pandoro* at Christmas 2022. Balocco, a historic Piedmontese confectionery brand, and Chiara Ferragni, one of the world's most famous digital entrepreneurs and fashion influencers, joined forces to create a limited edition Christmas product for charity. The initiative, officially presented under the title "*Chiara Ferragni and Balocco together for the Regina Margherita Hospital in Turin*", involved the sale of a Balocco pandoro in special pink packaging, co-branded with Chiara Ferragni's logo (the famous stylized blue eye), with part of the proceeds going to a pediatric cancer research project. It was therefore a product co-branding and cause-related marketing operation, in which the communicative value of the influencer was used to ennoble and make a classic Christmas dessert trendy, encouraging its purchase also thanks to the solidarity lever¹⁰⁸.

From an influencer brand perspective, this collaboration has cemented Chiara Ferragni's position as an influencer brand capable of extending her name beyond the confines of fashion and penetrating the mass food market. Her brand awareness already benefited Balocco: even before the official announcement, the product had appeared in some supermarkets and immediately went viral on TikTok, thanks to fans filming it on the shelves and enthusiastically sharing the images. This organic buzz, which started even before the promotional campaign, demonstrates the media power of the Ferragni brand: her followers act as voluntary amplifiers, creating hype around any news concerning her. In terms of engagement, content related to the #pinkchristmas pandoro (a hashtag launched for the occasion) garnered millions of views and interactions on social media. The pink packaging, the pink-colored powdered sugar detail, and the stencils provided to decorate the cake with Chiara Ferragni's logo were all elements designed to maximize shareability on social media, in other words, to make the product an "*Instagrammable item*" perfectly in line with Ferragni's aesthetic.

This strategy worked: the pandoro quickly became a hot topic online, confirming how effective co-branding with influencers can generate a spike in awareness and word of mouth in a very short time¹⁰⁹.

In terms of market results, Chiara Ferragni Pandoro was sold at a much higher price than a traditional Balocco pandoro: around €9 compared to ~€3.70 for the classic pandoro. This did not deter consumers, on the contrary, the perception was that they were contributing to a good cause by purchasing an exclusive product, justifying the premium price. Most of the stock sold

¹⁰⁸ <https://www.foodforfuture.unipr.it/news-en/the-pink-christmas-pandoro-case-the-deceptiveness-of-new-media-communication-in-the-food-and-beverage-industry>

¹⁰⁹ <https://tg24.sky.it/spettacolo/2022/11/02/chiara-ferragni-pandoro>

out during the holidays, and even after Christmas, a sort of secondary market sprang up: some pandoro cakes (even expired ones) and even parts of the packaging (such as the red ribbon with stars and logo) were resold online at hugely inflated prices (up to €50-100 for the cake and €100 for the accessories alone, with one extreme case advertised at €599)¹¹⁰ .

This almost paradoxical phenomenon, pandoro transformed into a “collector’s item”, is indicative of the symbolic value achieved by the Ferragni brand: the object itself becomes secondary to the meanings and status it represents. From a marketing perspective, it is a practical example of how co-branding with an influencer can dramatically increase the perceived value of a product, to the point of making it a cult object.

As highlighted by Sacchi (2016)¹¹¹, rarity and limited availability fuel desirability and almost irrational purchasing/collecting behavior, especially when linked to a highly iconic personal brand. In our case, the glamorous aura and affection of Chiara Ferragni’s fans have given a simple mass-market dessert an aura of exclusivity comparable to that of a luxury gadget.

In terms of brand image and associations, the operation has further associated the Ferragni name with positive values such as solidarity, given the charitable promise, and reinforced her image as an omnipresent trendsetter, from fashion to pandoro. Balocco, for its part, benefited from a sudden image makeover and penetration into a young, digitally connected audience, which perhaps rarely discussed pandoro before.

The collaboration brought Balocco massive media coverage, increasing the company’s brand awareness in new segments. It can therefore be described as an initially win-win co-branding: Ferragni also legitimized herself as a socially committed figure capable of dictating fashion trends even outside her core business, while Balocco gained unprecedented visibility and the opportunity to sell a seasonal product with higher margins thanks to the Ferragni brand mark-up.

However, the Ferragni-Balocco case also illustrates the potential pitfalls of co-branding and the importance of transparency, especially when an influencer’s reputation is at stake in commercial-social initiatives.

¹¹⁰ <https://www.fanpage.it/innovazione/tecnologia/il-pandoro-balocco-di-chiara-ferragni-viene-venduto-a-599-euro-sul-web-cosa-sta-succedendo/>

¹¹¹ Sacchi S. (2016), *Il fascino indiscreto della scarsità. Quando limited edition, temporary store e altre manovre di marketing si incontrano con la rarità e il collezionismo*, Franco Angeli Edition



Figure 9: Chiara Ferragni x Balocco - Pink Christmas Pandoro Limited Edition

3.4.1 Regulatory and sanctioning aspects of the Balocco case

Once the campaign was launched, doubts arose about the announced donation methods. The Italian Competition and Market Authority (AGCM) investigated the operation (named *Pandoro Gate* by the media).

On December 14, 2023, the AGCM found unfair commercial practices in the promotion of the Chiara Ferragni brand “Pink Christmas” pandoro, produced by Balocco, severely sanctioning both the company and the companies linked to the influencer.¹¹²

As stated in AGCM resolution PS12506, on January 19, March 10, and April 17, 2023, reports were received from the Association of Radio and Television Service Users complaining about the misleading nature of the initiative. By deed dated June 14, 2023, Balocco was notified of the initiation of preliminary proceedings PS12506 for alleged violation of Articles 20, paragraph 2, 21, and 22 of the Consumer Code, on the assumption that the press releases issued by Balocco and the pandoro packaging led consumers to believe, contrary to the truth, that by purchasing the product they would be contributing to the fundraising effort to finance the Regina Margherita Hospital in Turin for the purchase of new equipment that would allow for the exploration of new avenues for the treatment of children suffering from osteosarcoma and Ewing’s sarcoma¹¹³. On July 11, 2023, the proceedings were extended to include the companies Fenice and TBS Crew in relation to the press release and the information on the packaging mentioned above, as well as in relation to the content of all posts, reposts, and stories published by Chiara Ferragni, which presented the aforementioned charity initiative as associated with the sales of Ferragni’s branded Pandoro. The proceedings were finally extended to the

¹¹² AGCM, Provvedimento n. 30646/2023 (*PS12506 – Pandoro Pink Christmas*)

¹¹³ Ibidem

circumstance that Chiara Ferragni implied, through the publication of posts and stories, that she was an active part of the aforementioned donation¹¹⁴.

The AGCM confirms that the documentation acquired in the proceedings shows, on the one hand, that the operation was essentially a marketing operation conducted by Balocco with the aim of repositioning the Pandoro Balocco product on the market by giving it a different image; on the other hand, that the donation to the Regina Margherita Hospital in Turin, advertised as being associated with sales of the aforementioned Pandoro, had no connection with the sales themselves. It also emerges that the charitable initiative originated within Balocco, which in turn shared it with Chiara Ferragni, and that together the parties decided to associate the charitable activity with the branded Pandoro initiative. In particular, the license agreement signed on November 11 with the Fenice company states that Balocco would be required to make a donation of €50,000 to the Regina Margherita Hospital in Turin, which in fact took place on May 2, 2022, prior to the start of Pandoro sales. With regard to the fact that the donation was not linked to sales, emails exchanged between the Balocco and Ferragni teams as early as September 2021, before the contract for the project was signed, openly mention that the donation would take place in May 2022¹¹⁵.

Balocco writes to the representative of Fenice and TBS Crew: *“Balocco will contact the association and Balocco will always be listed as the donor. The donation will be made in 2022, only after we have unveiled our joint project to the market - therefore, approximately after May [...] Not having understood that the details of the donation would be subject to contract, we did not comment on it until after your prompting. This is why a certain “limitation” has arisen, which we are sure we will be able to overcome.”*

The emails clearly show Fenice’s desire to include Balocco’s donation in the project and the awareness that it would take place around May 2022.

On the contrary, all messages conveyed to the public were created by associating Pandoro sales with the raising of funds for donation, even though it was known that this had been done months before sales began. The press release states: *“The historic Piedmontese brand Balocco, recognized and appreciated worldwide for the excellence of its Christmas offerings, presents an exclusive new product: the Chiara Ferragni Pandoro, the sales of which will be used to finance research promoted by the Regina Margherita Hospital in Turin, through the purchase of new equipment that will allow new avenues to be explored for the treatment of children suffering from osteosarcoma and Ewing’s sarcoma.”* In addition, the label attached to the

¹¹⁴ Ibidem

¹¹⁵ Ibidem

Pandoro read: “*Chiara Ferragni and Balocco support the Regina Margherita Hospital in Turin by financing the purchase of new equipment that will allow new avenues to be explored for the treatment of children suffering from osteosarcoma and Ewing’s sarcoma.*” The information contained in Chiara Ferragni’s posts and stories also clearly suggests that the Pandoro initiative was created with the aim of financially supporting a charitable research project.

With regard to Fenice and TBS Crew’s awareness that the donation was not linked to sales, it is particularly noteworthy that the press release, which was then issued on November 2, 2022, shows that Balocco did not want to include any reference to the donation in the press release. In fact, in an internal email, he wrote: “*I would like to reply (to the Ferragni team): in reality, sales are needed to pay your exorbitant fees.*”¹¹⁶

For the record, we quote the first draft of the press release attached by Balocco to the Ferragni team in the email correspondence: “*The historic Piedmontese brand Balocco, recognized and appreciated worldwide for the excellence of its Christmas offerings, presents an exclusive new product created in collaboration with Chiara Ferragni: the ‘#PinkChristmas’ Pandoro. [...] With this product, Balocco and Chiara Ferragni are supporting research into childhood cancer by funding a research project promoted by the Regina Margherita Hospital in Turin through the purchase of new equipment that will allow new avenues to be explored for the treatment of children suffering from osteosarcoma and Ewing’s sarcoma.*”

Chiara Ferragni’s team responded as follows: “*Good morning. I have revised the press release in some places. I am sending it back to you as an attachment. [...] The historic Piedmontese brand Balocco, recognized and appreciated worldwide for the excellence of its Christmas offerings, presents an exclusive new product: the Chiara Ferragni pandoro, the sales of which will help fund research promoted by the Regina Margherita Hospital in Turin, through the purchase of new equipment that will allow for the exploration of new avenues for the treatment of children suffering from osteosarcoma and Ewing’s sarcoma.*”¹¹⁷

The press release that was then issued was revised by the Ferragni team, as it resulted from the fact that Fenice, in accordance with the provisions of the contract with Balocco, was able to decide on the text it proposed, as well as the editorial and communication line in general.

An email dated November 14, 2022, sent by [omissis] to her team reads: “*Ok with me, but pay close attention to the charity work, which exposes us to misleading advertising if related to sales.*” This refers to the preparation of posts and stories that Chiara Ferragni would soon be

¹¹⁶ Ibidem

¹¹⁷ Ibidem

publishing. A large number of emails account for the common definition of everything that was published: in all the content disseminated in connection with the “Pandoro PinkChristmas” initiative, there are expressions aimed at confirming that Chiara Ferragni herself had contributed to the charity initiative. on the other hand, the preliminary documents, on the contrary, demonstrate the undisputed fact that the donation advertised through the branded Pandoro packaging and other messages was made solely by the Balocco company, without any participation by the Fenice and TBS Crew companies, or by Chiara Ferragni herself¹¹⁸.

Since the commercial practice in question was disseminated via the internet, on October 26, 2023, the opinion of the Communications Regulatory Authority was requested, pursuant to Art. 27, paragraph 6, of the Consumer Code. In its opinion received on November 28, 2023, the Authority considered that the internet and social networks have developed the full promotional potential of communication, being tools capable of significantly influencing the implementation of the commercial practice in question.

The measure concerns the misleading nature of the methods used by Balocco, Fenice, and TBS Crew to advertise the product, leading consumers to believe, contrary to the truth, that by purchasing the aforementioned Pandoro they would be contributing to a donation to the Regina Margherita Hospital in Turin. Furthermore, the aforementioned “designer” Pandoro was offered for sale to the public at a price two and a half times higher than that of the classic Balocco Pandoro, approximately €9.37 per package compared to approximately €3.68 for the traditional Balocco Pandoro. Such a price difference, which was not justified by higher quality ingredients, reinforced the consumer’s belief that the higher price of the designer Pandoro included a contribution to the aforementioned donation.

With specific reference to the content of the posts and stories and the role that Chiara Ferragni played in the initiative to raise funds for the donation, it should be noted that there is no doubt, as claimed in the parties' defenses, that Ferragni’s activity was a commercial activity based on an agreement between Balocco and the companies Fenice and TBS Crew to advertise the Ferragni-branded Pandoro; this does not detract from the fact that the content created to advertise the aforementioned “*Pandoro Pink Christmas*”, taken as a whole, was likely to give the recipients of the messages the idea that by buying the Pandoro they could contribute to the aforementioned donation and that Chiara Ferragni herself was directly involved in the donation.

¹¹⁸ Ibidem

Furthermore, it does not appear sustainable that Ferragni's role in the donation consisted of providing "free" advertising for the hospital, as she advertised on the basis of contracts for consideration (consideration for the use of the trademarks equal to [100,000–1,000,000] excluding VAT and remuneration for the creation of posts and stories amounting to [100,000–1,000,000] excluding VAT), constructing messages in such a way as to qualify herself as co-creator of the charitable project, supporter, and directly active in said project and in the donation, which in fact is not true.

In light of the overall findings of the proceedings, the commercial practice carried out by the professionals Balocco, Fenice, and TBS Crew is unfair under Artt. 20, paragraph 2, 21, and 22 of the Consumer Code. The messages disseminated to the public were found to provide an unfair representation of the charitable initiative, contrary to the obligation of professional diligence, suggesting, contrary to the truth, that by purchasing the branded Pandoro, consumers could contribute to the initiative and that Chiara Ferragni would also contribute directly¹¹⁹.

In the present case, having assessed the criteria set out in Article 11 of Law No. 689 of November 24, 1981 (seriousness of the violation, economic size of the professionals involved, effects on consumers), the Court finds that the unfair commercial practice constitutes a serious violation of consumer rights.

In this case, after assessing the criteria set out in Article 11 of Law No. 689 of November 24, 1981 (seriousness of the violation, economic size of the professionals involved, prejudicial effects on consumers, and role of the individual companies), the AGCM determined the following penalties:

- Balocco S.p.A.: €420,000, considering both the distribution of the product and the donation, albeit modest, to the Regina Margherita Hospital in Turin;
- Fenice S.r.l.: €400,000, for its prominent role in drafting the press release and communication guidelines that misleadingly emphasized the link between sales and donations;
- TBS Crew S.r.l.: €675,000, as the creator of the posts and stories in which Chiara Ferragni was mistakenly attributed with active participation in the charity project.

The quantification of the penalty also took into account:

- the massive dissemination of the messages, conveyed both through the Balocco website and through Ferragni's social media profiles, which were likely to influence the choices of a large number of consumers;

¹¹⁹ Ibidem

- the emotional leverage used, namely the promise of a charitable donation to sick children;
- the undue expenditure incurred by consumers, estimated at approximately €1.6 million, resulting from the surcharge (an average of €9.37 compared to €3.68 for the classic pandoro, an increase of 254.62% for a product identical in ingredients and differing only in packaging).

In accordance with Article 27, paragraph 12, of the Consumer Code, the AGCM also prohibited the repetition of the unfair commercial practice and noted that, in the event of non-compliance, further penalties of up to €10,000,000 would be imposed and, in cases of repetition, the business could be suspended for up to 30 days¹²⁰.

The Turin Court, Special Business Section, with its ruling of April 23, 2024, and the Turin Court of Appeal, Special Business Section, with its ruling of October 9, 2024, confirmed the AGCM's position. The Turin Business Court found that the "Pandoro Pink Christmas" advertising campaign constituted an unfair commercial practice. However, while recognizing the illegality of the conduct, the judge of first instance rejected the claims for compensation brought by consumer associations against Balocco (as well as Fenice S.r.l. and TBS Crew S.r.l.), noting that collective injunctive relief cannot be sought for the financial compensation of individual purchasers. The Court of Appeal of Turin partially upheld this decision, reiterating the commercial impropriety of the promotion, but again rejected the claims for compensation, noting in essence that the purchase of pandoro does not cause direct damage to consumers and that there is therefore no causal link between the sale of the product and economic damage¹²¹¹²².

3.5 Content formats and genres for building influencer brands in collaborations

In addition to striking strategies such as capsule collections or product partnerships, there are numerous content formats and genres through which influencers build and communicate their brands in collaboration with companies. These formats represent the operational tools of influencer brand storytelling and are chosen based on the campaign objectives, the platform used, and the level of integration between influencer and brand. Below, we review the main

¹²⁰ Ibidem

¹²¹ Tribunale delle Imprese di Torino, *Sentenza 23 aprile 2024, n. 2590/2024*, Giudice Gabriella Ratti.

¹²² Corte d'Appello di Torino, *Sentenza 10 ottobre 2024, n. 3456/2024*, Sezione civile – conferma del provvedimento AGCM e della sentenza del Tribunale delle Imprese di Torino.

ones, with explanations and real examples, to highlight how each contributes to conveying the influencer's personal brand in a commercial context.

- **Branded Content:** this is the most common form of collaboration, in which the influencer creates ad hoc content (posts, videos, Stories, reels, blog posts) in partnership with a brand, identifying it with labels such as #adv or #sponsored. The goal is to promote a product/service in a native way, harmonizing it with the influencer's style and tone of voice, so that the advertising message is authentic and relevant to the audience. For example, a food influencer might create a recipe on Instagram using a certain appliance, spontaneously mentioning the product's qualities: the content entertains/informs users (interesting recipe) while communicating the brand in a non-intrusive way. From a personal brand perspective, branded content works if the influencer manages to integrate the product while remaining true to their identity. This reinforces the influencer's brand image as a well-groomed and beauty-conscious figure, consistent with the products they sponsor. Branded content can take various forms: honest reviews, tutorials, usage tips, and personal experiences related to the brand. The key is credibility: followers must perceive that the influencer only collaborates with brands that are in line with their values and that they genuinely appreciate, otherwise trust will be affected.

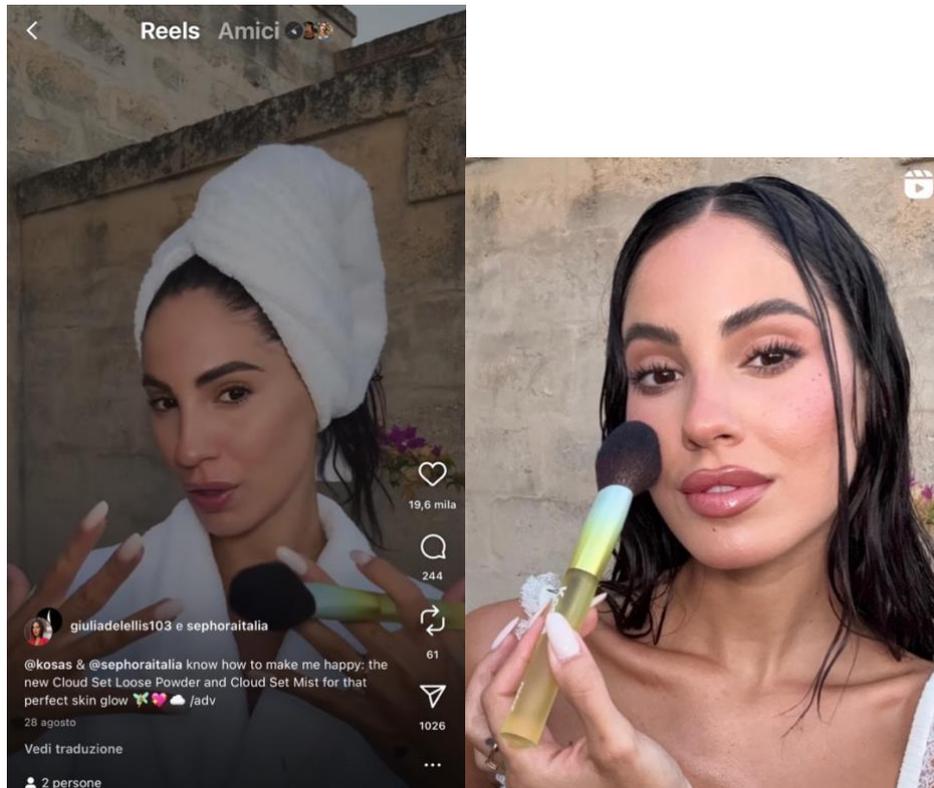


Figure 10: Giulia De Lellis' reel on instagram in partnership with Sephora Italia

- Product placement on social media and beyond: classic product placement, i.e., the inclusion of a product/brand in entertainment content in an apparently spontaneous way, has been reinterpreted in the age of influencers. In practice, influencers often show or use a product in their content without making it the explicit focus, leaving it in the “background” but clearly visible. Unlike declared branded content, product placement focuses on naturalness and repetition. For influencers, placement offers a low-effort method of monetization: integrating the product into the daily activities they already share. From a personal brand perspective, it is important that the products placed reflect the influencer’s lifestyle so as not to appear artificial. In the podcast *Tavolo Parcheggio*, hosted by Nicole Pallado and Gianmarco Zagato, the two creators integrate the AirUp brand into the scene. The branded water bottles, clearly visible on the table and used during the conversation, are a typical example of indirect promotion: the product is not presented through an explicit advertisement, but inserted into the everyday narrative context, reinforcing the perception of authenticity and closeness to the audience.

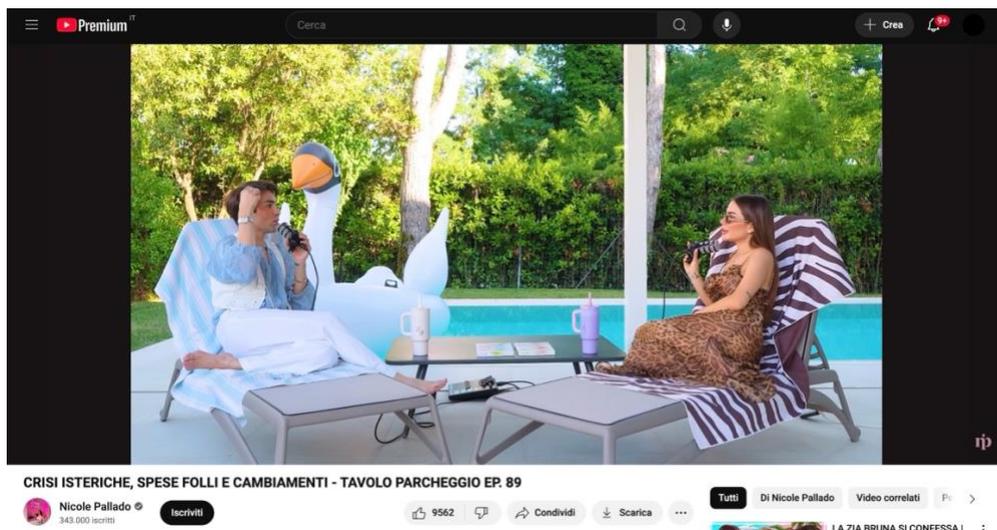


Figure 11: Nicole Pallado and Gianmarco Zagato in Tavolo Parcheggio

- Capsule collections and product co-creation: this is the highest-profile format, in which the influencer collaborates with a brand to design or inspire a limited line of products bearing both brands. Here, the influencer becomes almost like a product manager or designer for the company, bringing their taste and creative vision to the final product. Examples abound: Chiara Ferragni has signed capsule collections with Lancome (co-branded makeup, with packaging decorated with her logo), with Nespresso (Ferragni

edition coffee machines and cups, all pastel pink and decorated with an eyelike logo), and even with Oreo (co-branded cookies sold in a special edition).



Figure 12: Capsule Collection Nespresso x Chiara Ferragni

Internationally, there have been well-known collaborations such as Kanye West x Adidas = Yeezy. In these projects, the influencer benefits from the brand's production know-how and commercial network, while the brand benefits from the influencer's cool factor and following. From a personal brand perspective, a successful capsule collection cements the influencer's credibility as a creator: for example, the success of Yeezy sneakers has established Kanye West as a designer on par with the big names in fashion and associated him with values of innovation (and, ironically, quality, although he was not an athlete, he managed to design high-tech sneakers thanks to Adidas). For the company, co-branding products with influencers allows them to test new creative directions at low risk (the influencer's name attracts a guaranteed audience) and generate buzz marketing: capsule collections are often launched with events and social initiatives, exploiting FOMO (fear of missing out) to push fans to buy immediately. As noted above, the often limited edition nature of these lines allows for a premium price and higher margins, justified by their exclusivity and collectible appeal. One aspect to pay attention to is consistent quality: if the co-created product does not meet expectations (in terms of design or quality), both the company brand and the influencer's brand suffer, with the latter risking disappointing fans. This is why many influencer collections are developed meticulously and often in small quantities to ensure a high standard.

adidas  YEEZY

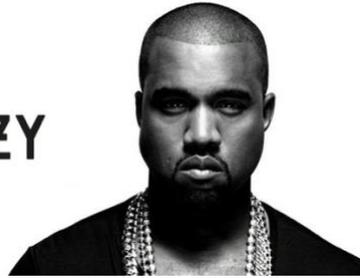


Figure 13: Adidas x Yeezy by Kanye West

- Traditional Testimonials and Ambassadors: in this format, the influencer becomes the official face of a brand in classic advertising campaigns (TV commercials, billboards, print or digital campaigns). It is an evolution of the concept of celebrity endorsement: the brand “hires” the influencer as a representative, often on a long-term basis, to embody its values. Chiara Ferragni, for example, has been Pantene’s testimonial and brand ambassador in Italy for years, appearing in TV commercials and promotional materials for the haircare brand¹²³; more recently, she has become a global ambassador for Bulgari¹²⁴ and Ghd¹²⁵ (as shown in subsection 1.4 *Classification of influencers and follower segmentation*).

An interesting example in the digital sphere example that illustrates the evolution of the testimonial format in the digital era is represented by Angie Tutorials, an Italian content creator from Rome. Initially known for sharing tips and tricks on how to make the most of Apple devices, she gradually built her reputation as a trusted source of information in the tech community. Since 2024, Angie has officially become part of the group of influencers invited to Apple’s keynote events¹²⁶, receiving products in advance for testing and sharing authentic first impressions on social media. This collaboration places her halfway between the traditional ambassador and the digital opinion leader: while Apple maintains full control over its official communication, Angie’s spontaneous and highly technical content creates a perception of authenticity that strengthens the brand’s credibility among her followers¹²⁷.

¹²³ Pantene Italy. (2016). *Pantene sceglie Chiara Ferragni come testimonial per la nuova campagna*. <https://www.pantene.it>

¹²⁴ Bulgari. (2020). *Chiara Ferragni named new global ambassador of Bulgari*. <https://www.bulgari.com>

¹²⁵ Ghd Italia. (2021). *Chiara Ferragni è la nuova global ambassador di ghd*. Retrieved from <https://www.ghdhair.com>

¹²⁶ Apple Italia. (2024, June). *Evento keynote WWDC 2024*. Cupertino: Apple Inc. <https://www.apple.com>

¹²⁷ Wired Italia. (2024, July 3). *Chi è Angie Tutorials, la creator italiana che Apple invita ai suoi keynote*. <https://www.wired.it>



Figure 14: AngieTutorials was invited by Apple to Apple's September 2024 keynote for the release of new products to test and promote them

In these roles, the influencer lends their image to the brand, which uses it in its official channels. The difference compared to branded content is that here the content is mainly produced and controlled by the company and the influencer is included as an actor/protagonist. This format is often chosen by brands when the influencer has achieved a status that is widely recognized by the public, ensuring universal appeal. The advantage for the personal brand is additional exposure and direct association with the prestige of the brand: being the spokesperson for an established brand is in itself a consecration. On the other hand, the influencer must accept strict guidelines and represent the brand in an aligned manner (for example, maintaining a certain decorum in public behavior during the contract period, under penalty of possible breach of contract). For the company, choosing an influencer as a spokesperson means bringing modernity to its communication: it conveys to the public that “*we are in tune with the present, we have a face loved by young people.*” For example, the choice of emerging TikTokers or YouTubers as brand ambassadors for electronics or financial services is becoming common in order to appeal to Gen Z. The testimonial format, while the most traditional, remains relevant: from a legal/marketing perspective, it involves contracts covering image rights and the use of the influencer's name as a brand, touching on advertising law issues (e.g., the obligation to mention that the testimonial's social media post is an advertisement, even if it is the face of the campaign).

- **Events, Live and Experiential Collaborations:** Many influencers strengthen their personal brand by participating in live events sponsored or organized in collaboration with companies. Events can include fashion shows, product presentations, store openings, theme parties, workshops, and even promotional tours. On these occasions, the influencer acts as an on-site testimonial, attracting audiences and media with their presence. For example, a makeup brand could organize an in-store event hosted by a famous beauty influencer, offering makeup tips to fans: this not only generates immediate sales, but also creates social content (photos, live streams, vlogs) that feeds both the brand's and the influencer's pages. Participating in events allows influencers to further humanize their personal brand by meeting followers in person, while also providing material for their storytelling (behind the scenes, trips to events, etc.).

A paradigmatic case in the Italian market is represented by Giulia De Lellis, who, for the launch of her brand's product *Audrer*, organized a weekend experience with a group of selected influencers. The initiative combined leisure and professional activities, including thematic workshops designed to immerse participants in the brand's identity and values. This type of *experiential marketing* transforms the promotional event into a narrative moment, capable of generating both user-generated content and strong emotional engagement with the brand community. By living an experience aligned with the brand's storytelling, the influencers involved became authentic amplifiers of its values, reinforcing the sense of exclusivity and belonging associated with *Audrer*.

All of this enriches the influencer's brand ecosystem, expanding it from the digital to the physical realm.



Figure 15: Giulia De Lellis explaining the "Maison Audrer" experience

In all these formats, the common thread is that the influencer manages to communicate their brand (i.e., their identity, style, and values) while collaborating with third-party brands. Each type of content represents a narrative platform where the influencer integrates the commercial message into their personal story. When done consistently, this benefits both the brand, which benefits from effective communication to an engaged audience, and the influencer, whose personal brand grows in credibility and relevance. On the other hand, if the collaboration feels forced or too distant from the influencer's identity, followers may perceive it as inauthentic: the risk is damage to trust and erosion of the hard-earned personal brand equity. Therefore, the selection of formats and partners is crucial: successful influencer marketing requires that the content format, the brand involved, and the influencer's personality are organically aligned.

The contemporary influencer acts as both a brand and a media outlet, moving within a diverse ecosystem of co-branding and content. The evolution from person to brand brings new responsibilities and opportunities: influencers become guardians of their own commercial image and partners of companies in the creation of shared value. We have seen how classic brand concepts (awareness, image, etc.) apply to influencers, and how co-branding can yield significant results but requires attention in terms of reputation and legal issues. Through concrete examples, it is clear that the law applied to marketing must keep pace with these developments, providing clear rules for transparency in communications and tools to protect consumers and businesses in new collaborative scenarios. Ultimately, "the influencer as a brand and co-branding partner" represents a fascinating frontier of modern marketing, where the individual becomes a business and commercial communication merges with life stories: understanding its dynamics and implications is essential for tomorrow's professionals.

3.7 Rights, reputation and risks

Influencers are known for their creativity and ability to produce engaging content, which forms the basis of strategies for promoting companies' products and services. Provided that it is original, such content is protected by copyright, i.e., that branch of intellectual property that protects creative works such as texts, videos, music, and photographs.

Italian copyright law (Law No. 633/1941) distinguishes between “simple photographs” and “photographic works,” granting the former limited protection and the latter full protection as intellectual works¹²⁸. Case law has emphasized that photography becomes a “work” when it is not limited to reproducing reality, but reflects the stylistic and creative choices of the author¹²⁹. This principle also applies to content created by influencers, who often enrich images with scenography, digital editing, and original visual narratives.

In addition to photographs, protected works also include written texts (posts, blog articles), videos uploaded to social networks, recipes, choreography, and musical compositions. The Court of Cassation has reiterated that the requirement of creativity may be minimal, but it must still translate into a recognizable personal contribution¹³⁰. It follows that even seemingly “simple” content, such as a photo of a dish posted by a food blogger, can qualify as a protected work if it has a creative contribution.

Precisely because of the protection offered by copyright law, influencers must not only protect their own content, but also avoid infringing on the rights of others. It is common practice to use material found online (music, photos, videos) to enrich one's posts. In such cases, it is necessary to always verify the availability of the relevant licenses, avoiding the use of copyrighted works without authorization.

A widespread belief is that simply citing the author is sufficient to make the use of a work lawful: in reality, this conduct is not sufficient to constitute authorization, except in cases where the social network itself allows internal sharing (sharing within the platform) governed by its own terms of use. Outside of these cases, the republication of content found on the web constitutes an infringement.

¹²⁸ L. no. 644/1941, “Legge sul diritto d'autore”.

¹²⁹ Court of Milan, judgment of June 28, 1993

¹³⁰ Cass. civ., sez. I, n. 5089/2014.

However, platforms introduce tools that generate further uncertainty. Reposting, embedding, and framing are widespread practices: the EU Court of Justice considers them lawful only when they do not circumvent technical restrictions and do not create a “new audience.”¹³¹ Seemingly harmless tools such as Instagram remixes or TikTok duets raise similar issues: modifying someone else's content, even if accompanied by one's own creative elements, may constitute copyright infringement in the absence of the original author's consent.

Furthermore, the possible transfer of certain economic rights upon registration with a social network does not eliminate the ownership of moral rights. The author always retains the right to authorship of the work and to respect for its integrity¹³². It is therefore not lawful to use photographs uploaded by other users on one's own profiles without authorization, even if the photographer's name is not indicated. Case law has clarified that the mere presence of a photograph on the profile of the user who uploaded it is sufficient to consider it attributed to that author¹³³.

Failure to comply with these rules is particularly serious when the content is not used for personal purposes but for profit. As professionals, influencers are therefore required to exercise even greater diligence in managing copyright, as violations can result in both civil and criminal penalties¹³⁴.

A particularly significant example, already discussed above, is the collaboration between Chiara Ferragni and Balocco for the launch of the so-called branded pandoro. The initiative involved a limited edition of the product, featuring customized packaging with the influencer's distinctive marks and accompanied by a communication campaign that emphasized the connection with charitable purposes. In hindsight, however, the Italian Competition and Market Authority (AGCM) challenged the lack of transparency in the information provided to consumers about the actual allocation of funds to charitable projects, concluding that unfair commercial practices had taken place.

¹³¹ CGUE, causa C-466/12; CGUE, causa C-301/15; CGUE, causa C-393/19.

¹³² Art. 22 L. 633/1941.

¹³³ Court of Milan, sez. spec. impresa, n. 6766/2016.

¹³⁴ Biondini, D., & Lomaglio, B. (2023). *Influencer marketing: tra diritto e pratiche*. Giuffrè Francis Lefebvre

Pasticcio di Natale Balocco-Ferragni, multa Antitrust



Figure 16: ANSA article on the Ferragni-Balocco case¹³⁵

The episode generated a real reputational crisis for the influencer, highlighting the risks associated with using one's name and image in co-branding operations. While Chiara Ferragni's personal brand helped to increase the perceived value of the product and justify a higher-than-average price, it also amplified the negative impact of the dispute, as responsibility for communication was immediately attributed to her as a personal brand. This case demonstrates how the commercial association between a corporate brand and an influencer is not limited to a mere advertising relationship, but involves a transfer of reputation and values, which can turn from an asset into a risk factor if communication or legal issues arise.

Another case of international significance, useful for understanding the scope of image rights, is the termination of the contract between Adidas and Kanye West (Ye). The collaboration had given rise to the Yeezy sneaker line, which generated billions of dollars in revenue and significantly strengthened the German brand's position in the lifestyle market. However, following public statements by the artist that were deemed anti-Semitic and discriminatory, Adidas decided to unilaterally terminate the contract, despite being aware of the huge financial losses that this decision would entail.

¹³⁵ https://www.ansa.it/sito/notizie/cronaca/2023/12/15/antitrustmaxi-multa-a-chiara-ferragni-e-balocco-per-pandoro_17fa1374-8eee-4ca5-82ee-09c290121ae9.html



Figure 17: Sneaker Yeezy by Adidas x Kanye West¹³⁶

This episode clearly shows how the personal brand of an influencer/celebrity is not a neutral asset, but intangible capital closely linked to their public behavior. Reputation therefore becomes a contractual factor that must be carefully monitored: while an influencer's image can generate value and visibility, it can also suddenly turn into a far-reaching reputational and financial risk. It is no coincidence that cases such as Kanye West's have reinforced the practice, already widespread in international collaborations, of including so-called morality clauses in contracts, i.e., clauses that allow the company to terminate the agreement early if the influencer behaves in a manner contrary to ethical values or company policy.

¹³⁶ <https://www.bbc.com/news/business-64591805>

Chapter 4

Consumer Perceptions and Attribution of Responsibility

The aim of this chapter is to present and discuss the results of the empirical survey conducted via questionnaire. After outlining the theoretical and regulatory framework of influencer marketing in the previous chapters, it was deemed necessary to verify the extent to which consumers, the end recipients of communication strategies, perceive the role of influencers, the degree of reliability attributed to them, and the distribution of responsibility in the event of critical issues.

The survey therefore aims to answer key questions: How much do consumers trust influencers compared to brands? To what extent do formal disclosures (e.g., paid partnerships) affect the perception of transparency? Who is held responsible in the event of an unsatisfactory product or misleading advertising?

4.1 Methodology

The questionnaire was created using Google Forms and administered to a sample of 53 individuals, mainly aged between 18 and 34, with a clear prevalence of females (40 women, 13 men).

The choice of a 7-point Likert scale allowed for the detection of more subtle nuances in attitudes, while ensuring simplicity of completion.

The structure of the questionnaire included:

- Socio-demographic data (age, gender);
- Purchasing behavior (previous purchasing experiences based on influencer recommendations);
- Likert items (13 statements on trust, transparency, quality, responsibility);
- Open question for any personal comments.

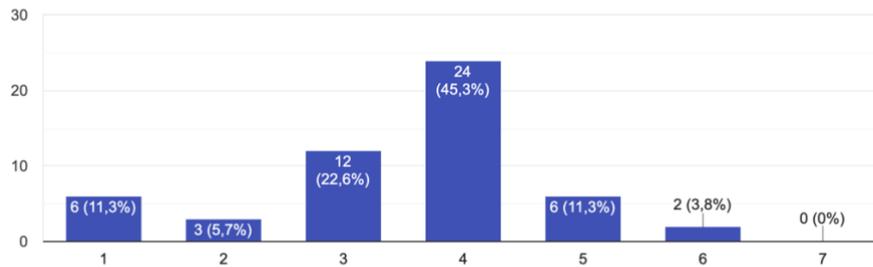
Although non-probabilistic and collected on a voluntary basis, the sample provides a useful framework for understanding general trends and formulating hypotheses about the dynamics of trust and responsibility in influencer marketing.

4.2 Results

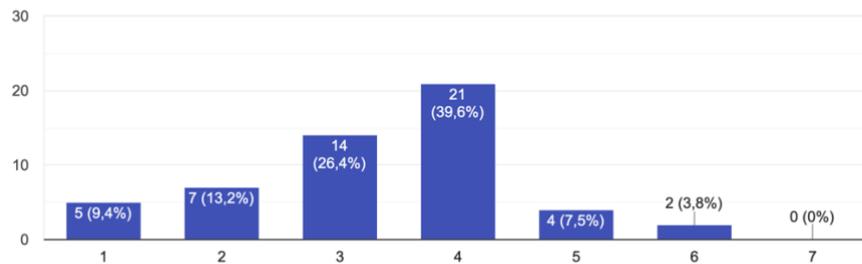
4.2.1 Trust in influencers and brands

The data shows that trust in influencers is moderate, with an average of around 3.5 out of 7, while trust in brands is slightly lower (3.3 out of 7). This confirms that consumers do not perceive either as totally reliable. However, it is clear that personal relationships are a determining factor: respondents say they trust an influencer they have been following for some time more than an unknown brand (average 4.4 out of 7).

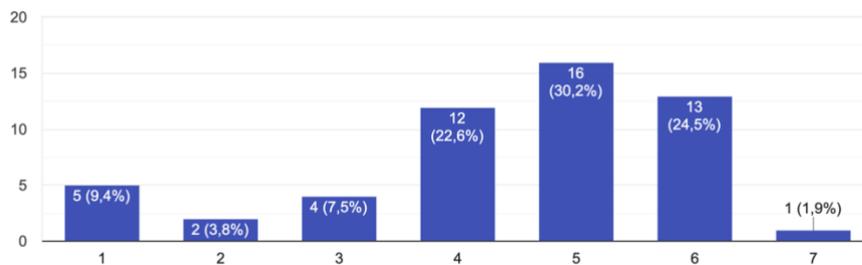
Ritengo che gli influencer siano in grado di fornire raccomandazioni affidabili sui prodotti
53 risposte



Ritengo che i brand comunichino in modo trasparente e onesto ai consumatori
53 risposte



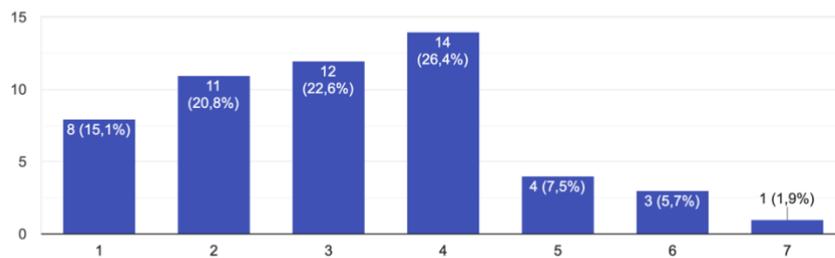
Mi fido maggiormente di un influencer che seguo da tempo rispetto a un brand sconosciuto
53 risposte



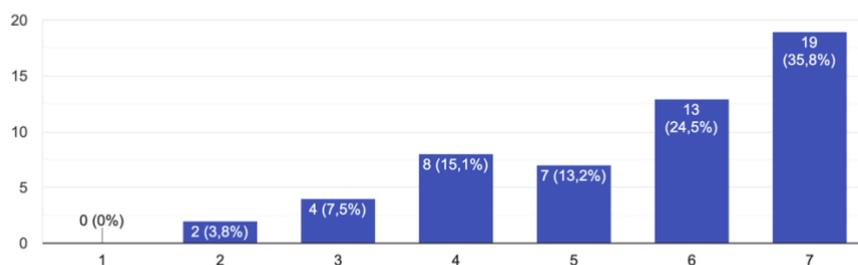
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Se un influencer promuove un prodotto, tendo a considerarlo di buona qualità
53 risposte



Ritengo che molti influencer promuovano prodotti senza conoscerli realmente
53 risposte

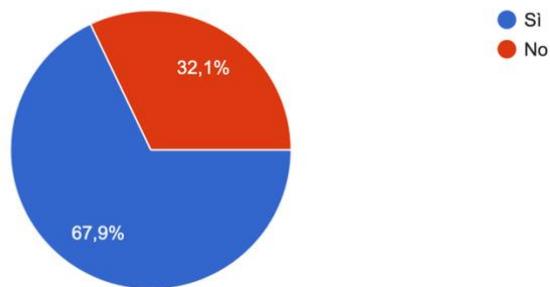


4.2.2 Purchasing experiences

Two-thirds of the sample (67.9%) have purchased at least one product recommended by an influencer. Those who have already made purchases tend to be less skeptical: they give higher scores to the reliability of influencers (4.0 vs. 2.5) and the perceived quality of the products promoted (3.5 vs. 2.3). Non-buyers, on the other hand, are more distrustful and more inclined to believe that influencers promote products without knowing them.

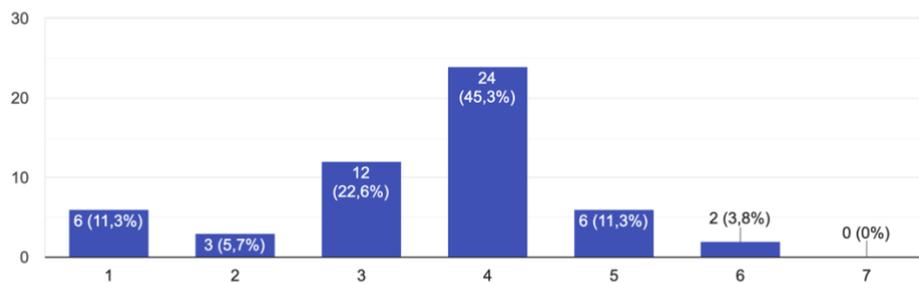
Hai mai acquistato un prodotto consigliato da un influencer?

53 risposte



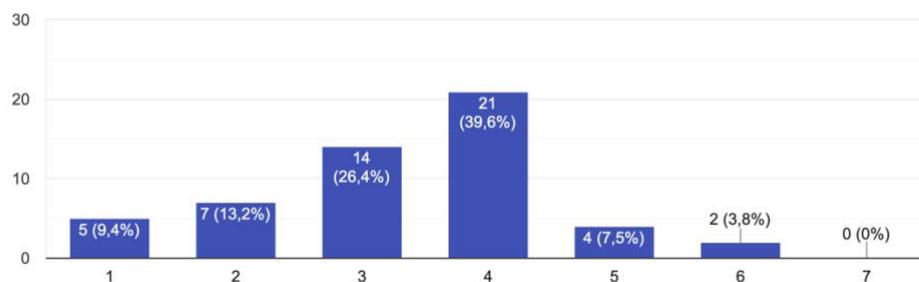
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53 risposte



Ritengo che i brand comunichino in modo trasparente e onesto ai consumatori

53 risposte



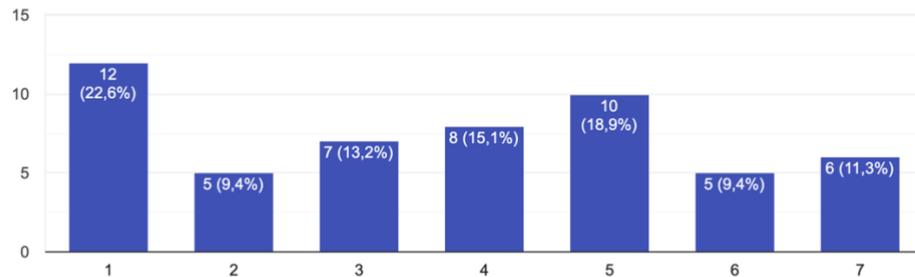
4.2.3 Post-purchase behavior

When the purchasing experience is negative, the perceived responsibility falls mainly on the brand: consumers say they will avoid future purchases from the brand involved (average 5.4 out of 7). The influencer also suffers consequences, but to a lesser extent: trust in him/her declines (average 4.3 out of 7), but not to the point of being completely lost. This confirms that the influencer is seen as an activator of the purchasing process, while ultimate

responsibility remains linked to the quality of the product and therefore to the manufacturing company.

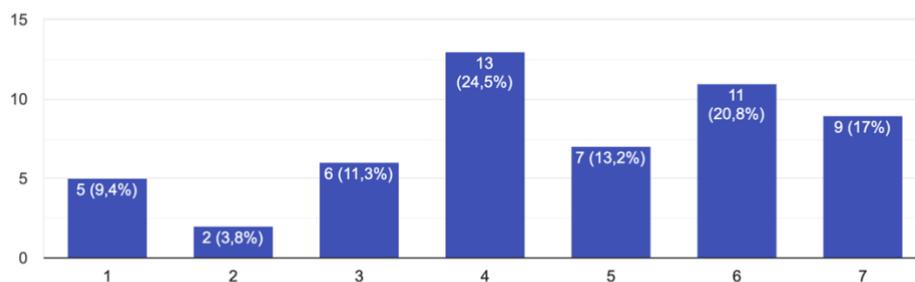
In caso di prodotto difettoso acquistato tramite un link di un influencer, considero l'influencer almeno in parte responsabile

53 risposte



In caso di insoddisfazione dopo un acquisto consigliato da un influencer, considero il brand pienamente responsabile

53 risposte

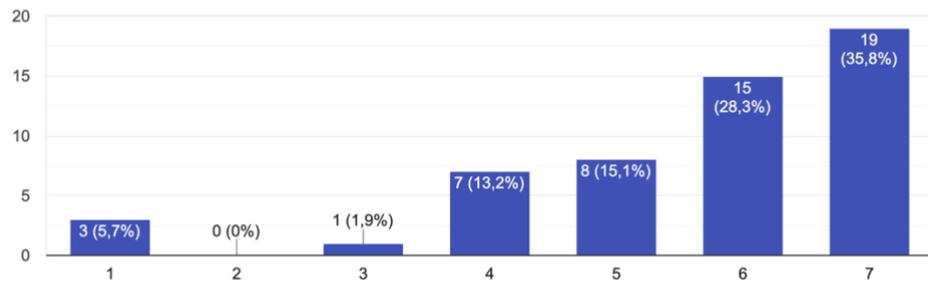


4.2.4 Attribution of responsibility

In the case of misleading advertising, the majority believe that responsibility should be shared between the brand and the influencer (average 5.6 out of 7). When it comes to defective products, influencers are perceived as partially responsible (average 3.7 out of 7), but in the event of serious damage, consumers believe that they should also be legally liable (average 5.2 out of 7).

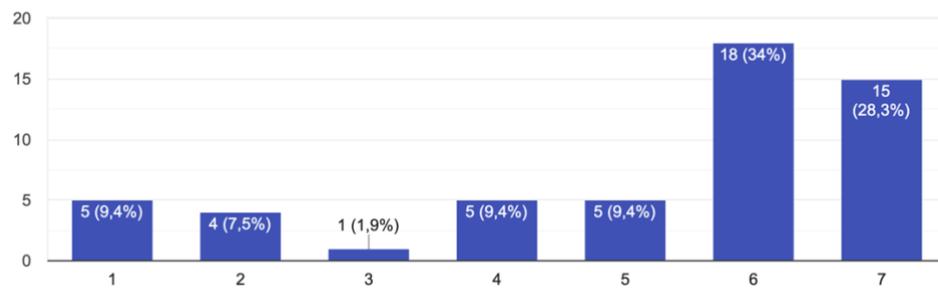
Credo che influencer e brand dovrebbero condividere la responsabilità nel caso di pubblicità ingannevole

53 risposte



Un influencer dovrebbe rispondere legalmente se promuove un prodotto che causa danni o problemi

53 risposte

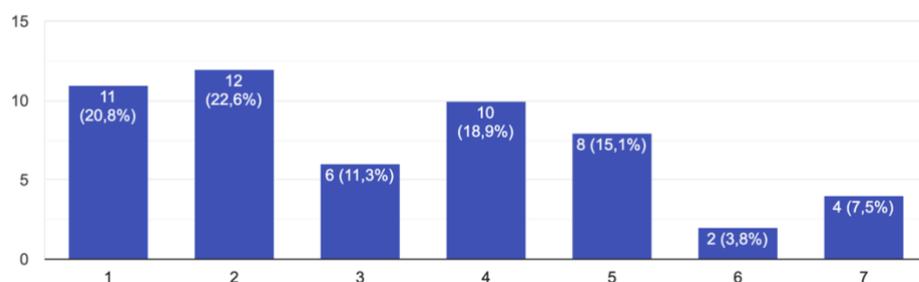


4.3.5 Transparency and disclosure

The simple wording paid partnership is not considered sufficient to guarantee trust (average 3.2 out of 7). On the contrary, consumers demand greater substantial transparency, i.e., detailed explanations of the nature of the collaboration and concrete demonstrations of the use of the product.

Se un influencer specifica chiaramente che è una collaborazione a pagamento, tendo a fidarmi di più

53 risposte



4.3 Critical discussion

Although conducted on a non-probabilistic sample, the survey highlights certain dynamics that allow for both theoretical and practical reflections. First, the data confirm what has already been hypothesized in the literature: consumers do not attribute absolute trust to either the brand or the influencer but rather construct their own perception through comparative evaluation. On the one hand, influencers are recognized as figures of proximity, capable of establishing a relational and narrative bond; on the other hand, brands remain the ultimate guarantor of quality. The combination of these two components creates a fragile balance, in which authenticity becomes the real currency of exchange.

The survey shows that relational trust prevails over formal transparency: the term “paid partnership” does not significantly increase trust and, in fact, risks reinforcing the perception of artificiality if not accompanied by concrete signs of consistency and actual use of the product. It is therefore clear that trust cannot be “imposed” by regulatory labels but must emerge from an ecosystem of narrative consistency.

A second element concerns the attribution of responsibility. Whereas the literature tended to represent influencers as mere intermediaries, the data collected show that consumers no longer perceive them as neutral figures. On the contrary, they expect them to be accountable, albeit to a lesser extent than the brand, for the consequences of incorrect or misleading promotions. This is a significant transformation because it signals the transition of the influencer from a simple endorser to a co-protagonist in the contractual and communicative process.

Finally, post-purchase behavior reveals that influencers play a crucial role in triggering the purchase decision, but the responsibility for any dissatisfaction falls mainly on the company. This dual result confirms the centrality of the brand as a legally and reputational exposed entity but also opens up the possibility of forms of joint liability, especially in cases of misleading or harmful advertising.

4.4 Future implication for legal and marketing practice

The empirical analysis conducted and the theoretical-legal framework reconstructed in the previous chapters allow us to draw broad conclusions about the future of influencer marketing. On the one hand, it is clear that contemporary consumers do not simply passively receive

messages transmitted through social media, but take an active and critical role in evaluating sources and building trust. On the other hand, ongoing regulatory developments—both nationally and internationally—are reshaping the framework within which brands and influencers can operate, profoundly transforming the very way commercial communication is conceived.

4.4.1 Authenticity and trust as marketing capital

The results of the questionnaire highlight how consumer trust is not built solely through the notoriety of the influencer or brand, but through the perception of authenticity and consistency of values. Contemporary consumers, bombarded by advertising stimuli, appear increasingly unwilling to accept messages perceived as artificial, while tending to favor content that conveys sincerity and closeness. International literature confirms this trend: the saturation of the influencer marketing market has led to a decline in engagement and an increase in skepticism towards sponsored content, forcing a redefinition of corporate strategies based on the search for authentic and meaningful interactions¹³⁷.

As a result, the criteria for selecting partners can no longer be based solely on vanity metrics such as the number of followers or views. Companies will have to move towards collaborations with micro and mid-tier influencers, who are able to establish more genuine relationships with smaller but highly loyal communities, generating higher quality engagement. At the same time, it will be necessary to prioritize long-term relationships, in which the influencer does not act as a mere advertising megaphone, but becomes an ambassador for the brand's identity, capable of internalizing its values and conveying them with narrative consistency to their followers.

4.4.2 Transparency and regulation: from constraint to opportunity

Another important point concerns the perception of transparency. The data show that the paid partnership label, while necessary, is not enough in itself to generate trust: on the contrary, if not accompanied by effective consistency of behavior, it risks being interpreted as an empty formality. This data confirms the importance of an approach that integrates regulatory obligations with communication strategies capable of promoting transparency as a positive value, and not as a mere constraint imposed by the authorities.

In Italy, the approval of the new AGCOM Code of Conduct for relevant influencers (July 2025) represents a crucial step. For the first time, creators with over 500,000 followers are treated as

¹³⁷ MBLM Agency, *From Saturation to Authenticity: Rethinking Influencer Marketing in 2025* (2023).

media service providers, with full editorial responsibility and specific obligations regarding disclosure, protection of minors, and reporting the use of filters or photo editing¹³⁸. France, with its 2023 law, and the United States, with its 2023 update to the FTC guidelines, have also embarked on the path of stringent regulation, requiring clarity, fairness, and shared responsibility between brands and influencers¹³⁹.

While this entails additional compliance costs, it also offers brands an opportunity: to turn transparency into a competitive advantage by communicating their focus on ethics and fairness as an integral part of their reputation. In a context where consumers reward responsible behavior, the ability to demonstrate a concrete commitment to disclosure and child protection can translate into stronger brand equity.

4.4.3 Evolution of contracts and shared responsibility

The survey highlighted that consumers no longer consider influencers to be neutral figures, but rather as parties who share responsibility for the consequences of promotions. This is a far-reaching cultural change, which is directly reflected in contracts.

Influencer marketing contracts, traditionally classified as atypical contracts, are becoming increasingly defined and complex. Recent practices show the systematic inclusion of clauses relating to: disclosure obligations, prior approval of content by the brand, moral clauses, exclusivity and non-competition, confidentiality obligations, liability for regulatory violations, and reputation crisis management¹⁴⁰. The so-called “Pandoro-gate” is a prime example: the lack of transparency in a Christmas campaign caused enormous reputational damage, prompting the industry to strengthen contracts and controls.

Looking ahead, it seems increasingly likely that positive law will evolve towards forms of joint liability between brands and influencers, at least in cases of misleading or harmful advertising. This will require the development of contractual clauses that clearly distribute risks and define duties of care proportionate to the position of the parties.

¹³⁸AGCOM, *Codice di condotta per influencer rilevanti*, Delibera n. 201/23/CONS, luglio 2025.

¹³⁹Federal Trade Commission, *Endorsement Guides: Guides Concerning the Use of Endorsements and Testimonials in Advertising* (2023); Loi n° 2023-451 “Encadrement de l’activité d’influenceurs”, Francia.

¹⁴⁰G. M. Riccio, *La sponsorizzazione e l’influencer marketing*, in *Diritto dell’informatica* (2022).

4.4.4 Social implications and future prospects

Analysis of the data collected through the survey showed that consumers do not limit themselves to evaluating the intrinsic quality of the product promoted by influencers, but attach increasing importance to social and ethical factors. The responses clearly show that transparency, consistency, and responsibility are essential elements in determining the degree of trust in both the influencer and the brand involved. A significant proportion of the sample stated that they believe influencers should be held responsible, including contractually, for the consequences of misleading or incorrect communications.

This result highlights a broad social dimension: contemporary consumers are not only looking for effective advertising messages, but also expect communication to reflect values of sustainability, inclusion, and authenticity. As a result, influencers can no longer be considered merely a promotional vehicle, but rather active participants in the construction of shared meanings, with the power to influence collective behavior and cultural dynamics.

For businesses, this evidence suggests the need to conceive of influencer marketing not as a short-term tactical activity, but as a strategic tool for establishing lasting relationships with increasingly attentive and demanding consumer communities. In this perspective, influencers occupy an intermediate position between traditional testimonials and digital community managers, mediating between the commercial interests of businesses and the expectations of civil society.

The future implications are also significant from a regulatory perspective. The survey results confirm that self-regulation mechanisms alone are not perceived as sufficient to guarantee the fairness of contractual relationships or the transparency of advertising messages. It is therefore desirable to strengthen regulatory intervention, which should not be limited to reiterating the obligations of companies but should identify more precisely the responsibilities of influencers, preventing contractual imbalances that result from the almost total delegation of communication.

The empirical data collected show that the future of influencer marketing will depend on the legislator's ability to develop a unified and consistent framework capable of ensuring certainty in contractual relationships, effective consumer protection, and direct and proportionate accountability of influencers.

4.5 Conclusion of the analysis

In summary, the results of the empirical research show that influencer marketing can no longer be interpreted as a simple promotional strategy, limited to increasing sales or visibility. Analysis of the questionnaires administered to consumers clearly showed that transparency, authenticity, and accountability are the decisive criteria for assessing the credibility of influencers and, consequently, the brands they represent. A significant proportion of respondents stated that they consider it essential for sponsored content to be recognizable and for influencers to be fully accountable in the event of incorrect or misleading communications.

The result is a complex ecosystem in which economic, legal, and social dynamics intertwine, redefining the relationship between businesses, consumers, and content creators. While marketing strategies must prioritize authenticity and the building of long-term relationships, the law is called upon to guarantee clear rules and effective protection tools, aimed at ensuring a fair balance between the parties and strengthening the position of consumers, who are now more aware and demanding.

Only through this dual perspective, communicative and regulatory, will it be possible to consolidate influencer marketing as a mature and sustainable phenomenon, capable of generating not only economic value, but also legal and social value, in line with consumer expectations and the needs of a transparent and competitive market.

CONCLUSION

Influencer marketing is now confirmed as a frontier area in which social dimensions, economic interests, and legal profiles interact dynamically. Born as a spontaneous phenomenon on social platforms, it has rapidly evolved into a mature and recognized sector, to the point of receiving its own ATECO code and seeing the emergence of dedicated contracts and trade associations. Influencers are no longer improvised amateurs, but personal brands in their own right, capable of influencing tastes and consumer choices and redefining the traditional communication dynamics between companies and the public. This evolution brings with it the need for a multidisciplinary approach: while marketing strategies have permanently incorporated the figure of the influencer, the law has had to catch up with the phenomenon to ensure an adequate regulatory framework.

The first part of this analysis has shown how, alongside general rules on advertising and consumer protection, specific guidelines and recommendations have multiplied (from the moral suasion of the AGCM to the IAP codes of conduct, to the FTC guidelines, ASA, and European initiatives such as the DSA) aimed at imposing obligations of transparency and fairness in influencers' commercial communications. Influencer marketing can no longer operate in a "free zone" without rules: promotional messages disguised as organic content violate the principles of fairness and transparency and are considered illegal, as demonstrated by the numerous sanctions imposed by the competent authorities. Companies and creators are therefore required to draw up detailed contracts and educate themselves on their legal obligations, so that advertising collaborations on social media are immediately recognizable as such.

The regulatory framework is becoming increasingly consolidated in this direction, combining public regulation and self-regulation: a prime example is the new AGCOM Code of Conduct for "macro-influencers" (2024–25), which effectively equates the most relevant creators with media service providers, with stringent editorial and transparency obligations, thus supporting the AGCM's action in terms of competition and consumer protection. These developments mark the transition of influencer marketing from its initial "wild age" to a phase of increasing institutionalization, in which clearer rules aim to ensure contractual fairness and user protection without stifling innovation in the sector.

The critical analysis carried out in the third chapter highlights how influencers, conceived as personal brands, become a strategic communication and economic resource for companies, but

also a source of shared legal and reputational risks. In other words, we are witnessing a real co-branding between influencers and companies: the credibility of one affects the reputation of the other and vice versa. This requires careful and conscious management of the contractual relationship: authenticity, consistency of values, and ethical alignment between brands and content creators are essential for building successful partnerships.

The Ferragni–Balocco case, examined in detail, provided an emblematic example of the potential critical issues: a charity campaign that was poorly calibrated in terms of information led not only to heavy sanctions by the AGCM (for unfair commercial practices and hidden advertising), but also to damage to the image of both the company involved and the influencer herself. This episode marked a watershed moment, demonstrating concretely that responsibility for misleading messages can and must be shared: the commissioning company is liable as a professional promoter, but the influencer, now considered an “atypical” professional operator, can also be held liable administratively (as jointly financially responsible for penalties) and in terms of reputation. This case triggered widespread reflection in the sector, stimulating the adoption of more rigorous contractual clauses (e.g., disclosure obligations, prior approval of content by the brand, moral clauses, penalties for violation of transparency obligations) and stricter internal control procedures in commercial collaborations. In short, influencers have gone from being a simple promotional vehicle external to the company to an integrated communication partner, whose work is subject to increasing scrutiny and who must therefore act with professional diligence comparable to that required of other testimonials or media.

The empirical research conducted in the fourth chapter reinforces and complements these considerations, offering significant data on consumer perceptions. The results show that the public develops only a moderate level of trust in influencers (an average of 3.5 out of 7 on a trust scale) and even lower trust in brands (around 3.3 out of 7), a sign that neither of these actors is perceived as completely reliable a priori.

However, trust increases significantly when there is a long-term relationship: an influencer who has been followed and appreciated for some time obtains higher reliability scores from followers than a little-known brand. About two-thirds of the sample interviewed (67.9%) say they have purchased at least one product on the recommendation of an influencer: a figure that confirms the commercial impact of the phenomenon, but which at the same time distinguishes between influenced buyers and non-buyers. Consumers who have made purchases based on influencer suggestions show less skepticism: they give higher ratings both to the credibility of influencers (4.0 vs. 2.5) and to the perceived quality of the promoted products (3.5 vs. 2.3

compared to non-buyers). Those who have never purchased based on a creator's recommendation remain more distrustful, often believing that influencers sponsor items without knowing them thoroughly.

Of particular interest are post-purchase behaviors and the attribution of responsibility in the event of a negative outcome: when the consumer experience is disappointing, the primary reaction of customers is distrust of the brand (most avoid future purchases from the brand in question, with an average score of 5.4/7 on the propensity to boycott the brand), but the image of the promoting influencer is also affected (trust in him/her decreases, with an average value of 4.3/7). This confirms that influencers are seen primarily as activators of the purchasing process, while the ultimate responsibility for product quality remains with the manufacturer, the party responsible for the good or service. Despite this, consumers no longer consider influencers to be neutral figures: on the contrary, the survey clearly shows that they expect influencers to be accountable for their promotions, albeit to a lesser extent than the company. The majority of respondents believe that, in the case of misleading advertising, responsibility should be shared between the brand and the influencer (average agreement rating 5.6/7), while for defective products, the influencer is considered partially responsible (3.7/7); However, if the promotion of a product causes serious damage, respondents call for legal liability to be imposed on the creator as well (5.2/7). These data mark a significant cultural change because the public no longer sees influencers as mere showcases, but as co-protagonists in the communication and contractual process, attributing an active role to them and demanding a certain level of accountability.

Similarly, users show strong sensitivity to transparency in communication: the mere presence of the label "*paid partnership*" or the hashtag *#adv* is insufficient to guarantee trust (only 3.2/7 perceived effectiveness). Respondents demand greater substantive transparency, appreciating clear details about the nature of the collaboration and, above all, concrete evidence of the influencer's sincere use of the product. This aspect reiterates that trust cannot be established solely through formal means via legally mandated notices, but must be earned through authentic narrative and behavioral consistency.

Ultimately, the empirical results outline a complex ecosystem in which economic, legal, and sociocultural dynamics intertwine: on the one hand, today's consumers act actively and critically, carefully evaluating sources and content; on the other, influencers and companies operate in an increasingly regulated environment subject to public scrutiny, where authenticity and transparency become the fundamental currency of trust.

The practical implications of these findings are manifold for both marketing and law.

At the managerial and marketing level, it is clear that companies must no longer conceive of influencer marketing as a short-term tactical promotional activity, but as a strategic tool for building long-term relationships with increasingly attentive and demanding consumer communities. The choice of influencer partners cannot be based solely on follower numbers or immediate returns in visibility, but must consider the creator's affinity with values, credibility, and ability to generate authentic engagement. In a context of advertising saturation and growing skepticism towards sponsored content, only collaborations based on genuine affinity and mutual respect can produce lasting reputational capital.

Authenticity and trust therefore emerge as crucial marketing capital: content perceived as sincere, transparent, and useful elicits positive reactions and consolidates audience loyalty, while strategies perceived as artificial or purely opportunistic risk having the opposite effect. Companies are therefore called upon to invest in transparency not as a constraint imposed by regulations, but as an added value to be communicated: adherence to ethical practices (e.g., compliance with rules protecting minors, responsible use of filters/edits in photos, clarity in indicating sponsored content) can be transformed into a competitive advantage, helping to build a reputation as a responsible and reliable brand. Influencers, for their part, need to become more professional: building a personal brand today requires not only creativity and communication skills, but also attention to due diligence and basic legal training in order to avoid omissions or misconduct.

In essence, the sustainability of influencer marketing in the medium to long term depends on the ability of all players to put trust and transparency before short-term goals, orienting strategies towards the creation of mutual value: for consumers (in terms of honest content and products that truly meet their needs), for brands (in terms of reputational capital and customer loyalty), and for influencers themselves (in terms of credibility and professional growth).

From a legal and regulatory perspective, the progress of this sector requires a parallel adjustment of contractual and regulatory instruments. Influencer marketing contracts, which initially emerged as atypical and flexible agreements, are becoming increasingly structured and detailed, as highlighted in the thesis: they now systematically include clauses on disclosure and fairness obligations, content approval rights for the company, moral clauses to protect the brand image, exclusivity and non-competition agreements, confidentiality obligations, and above all, provisions on the allocation of liability in the event of violations (for example, providing for compensation or penalties to be paid by the influencer if their failure to comply, such as not

disclosing sponsored content, results in sanctions by the authorities).

This contractual evolution reflects the growing awareness that legal risk must be managed jointly: companies tend to protect themselves by transferring part of the risk to the influencer (who may be contractually liable for any fines or damages caused by their omissions), while the influencer, for their part, must agree to assume stringent compliance obligations in order to collaborate with major brands.

On the regulatory front, there is a gradual international convergence towards clearer and more uniform rules: in Italy, as mentioned, the AGCM and AGCOM work in synergy to monitor the phenomenon, and alongside the IAP self-regulation, specific regulations have been introduced (such as the aforementioned Legislative Decree 208/2021 and its implementing resolutions) have been introduced to define the scope of the most influential influencers' activities. In France, an ad hoc law of 2023 regulated the activities of digital influencers, and in the United States, the FTC updated its Guidelines in the same year to explicitly include new forms of media and shared responsibilities. These developments indicate a clear trend that influencer marketing is being removed from a regulatory vacuum and placed within a framework of shared responsibility between companies and creators, with the aim of ensuring greater protection for the end consumer. It is essential, however, that this regulatory evolution proceeds in a balanced manner: on the one hand, it is necessary to avoid excessive deregulation, ensuring that neither brands nor influencers can operate without constraints to the detriment of public trust; on the other hand, it is also necessary to avoid the opposite extreme of hyper-regulation, which could stifle the creativity and authenticity of the medium.

Self-regulation within the sector remains a valuable tool, but the data collected indicates that consumers do not perceive it alone as sufficient to guarantee fairness and transparency: there is therefore a desire for stronger public intervention, which, far from being seen as a mere bureaucratic constraint, should aim to clearly define the duties and responsibilities of all players, preventing contractual imbalances and excessive delegation of responsibility to the weakest link. In particular, legislators and authorities will have to work towards a unified and coherent framework that ensures certainty in contractual relationships, effective consumer protection, and direct and proportionate accountability of influencers in the event of misconduct.

The evolution towards forms of joint liability between companies and creators is already on the horizon, at least in cases of misleading advertising or harmful practices, which will require continuous adaptation of both regulations and contractual practices.

Ultimately, a clear message emerges from all these considerations: influencer marketing has become a complex and multifaceted reality, whose future success will depend on the ability to combine communication and regulatory aspects in a virtuous balance. On the one hand, marketing will have to continue to innovate by focusing on transparency, authenticity, and trust building; on the other hand, the law will have to ensure a clear but flexible system of rules, capable of adapting to the rapid evolution of digital media without losing sight of the substantial protection of the weaker parties (consumers and, to a certain extent, minor influencers). Only through this dual perspective, communicative and regulatory, will it be possible to consolidate influencer marketing as a mature and sustainable phenomenon, capable of generating not only economic value, but also social and legal value. In an increasingly transparent and competitive market, compliance with regulations can itself become an integral part of the value proposition of brands and influencers, transforming fairness and responsibility into levers of credibility. The final hope is therefore for balanced regulation, the result of dialogue between institutions, businesses, and creators, which can balance innovation and protection: only in this way can the influencer marketing ecosystem continue to grow, meeting consumer expectations and contributing positively to the development of more ethical and transparent communication practices for the future.

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