

Written evidence submitted by ISBA

Response to the Digital, Culture, Media and Sport Select Committee *Influencer culture*

May 2021

1. About ISBA

- 1.1. ISBA is the only body in the UK that enables advertisers to understand their industry and shape its future, because it brings together a powerful network of marketers with common interests, empowers decision-making with knowledge and insight and gives single voice to advocacy for the improvement of the industry.
- 1.2. ISBA is a member of the Advertising Association and represents advertisers on the Committee of Advertising Practice and the Broadcast Committee of Advertising Practice, sister organisations of the Advertising Standards Association, which are responsible for writing the Advertising Codes. We are also members of the World Federation of Advertisers. We are able to use our leadership role in such bodies to set and promote high industry standards as well as a robust self-regulatory regime.

2. Response

Defining influencers and influencer marketing

- 2.1. In their submission to the Committee's inquiry, our colleagues at the Advertising Association have provided an extremely useful definition of influencer marketing, noting that it involves the promotion of brands and products by selected individuals who are deemed to have a potential influence on the recipient of the ads. While the use of figures deemed to have some pull or cachet with the audience is not new – celebrity endorsements of products have been a feature of advertising for decades – some particular factors can be said to be unique to the modern expression of influencer marketing. These include the identity of the influencer themselves; the varying sizes of their audience and potential reach; and the underlying presumption of such marketing, namely that there is an authenticity to the endorser deriving from their being somebody with whom the person being advertised to can identify.
- 2.2. With the development of now-ubiquitous tech platforms such as Facebook and Instagram, and the fact that they are funded by advertising, came a migration to those platforms first by individuals, and then by the brands, who naturally followed their audience. The personalised nature of these sites/apps, the technology they use, and the platform they afford their users crystallised two trends: first, the tailoring of ads by brands to specific demographics and audiences; and second, the rise of the individual's power to both build their own brand, and to monetise their interests and lifestyle.
- 2.3. In an age where trust in advertising is low and brands face socially conscious, highly critical audiences, these developments have converged. Brands can now employ the services of individuals who do not have an immediate association with big names who may be perceived to be remote and out of touch. They can utilise the fact that those individuals are more perceived by audiences as 'someone like me', with similar tastes and life experience. Any endorsement that they deliver will therefore carry

more weight with audiences than messaging put together in corporate headquarters. This is clearly distinct from the kind of celebrity endorsement which occurred in the past (and continues to occur today), where the draw is more akin to wanting to be more like an idol by using the same brand or product that they purport to use.

- 2.4. The rise of the influencer has become associated, especially in the media's mind, with a kind of narcissism or self-absorption, driven by the fact that many contestants in reality TV programmes such as *Love Island* have gone on to promote themselves as influencers, often in a lifestyle, beauty, fashion, or travel space. The hostile response to this can be seen in, for instance, criticism of some influencers who travelled abroad during the pandemic (often entirely legitimately). However, this perception of influencers barely tells the story. Influencers represent a form of self-employment, with all the insecurity that often brings; and the vast majority undertaking influencer marketing are striving to make a success out of the things they love.
- 2.5. This is not to say that there are not challenges posed by the rise of influencer marketing. Issues relating to body image, the use of unrealistic photo filters, or the promotion of irresponsible products are all problems which the Government and the advertising industry's self- and co-regulatory system are striving to solve. Equally, influencers can have a positive role to play – such as in the reinforcement of positive messages about body confidence, or the dissemination of public health information. The challenge, as with all types of marketing activity, is to set the parameters of what is acceptable, robustly police inappropriate advertising, and educate industry participants.
- 2.6. Meeting these challenges head-on is of increasing importance, given that influencer marketing shows no sign of slowing down and, indeed, is branching into new areas. It can now be said to be broken down into multiple layers, such as microinfluencers (those with followers numbered between 10,000 and 50,000) and nanoinfluencers (between 1,000 and 10,000 followers). Virtual influencers – AI or other computer-generated figures – are now also a fact of life in some markets.

Rules and regulations on influencer marketing

- 2.7. The rules relating to influencer marketing have been set out by the Advertising Standards Authority and the Competition and Markets Authority. Following discussions with influencers and agencies, the Committee on Advertising Practice and the CMA published the first edition of their influencer guidance in September 2018, bringing together all the advisory information influencers needed to ensure that they were abiding by the rules. This guidance was revised in February 2020, following ASA research on ad labelling.
- 2.8. The ASA guidance makes clear when an influencer needs to disclose that an ad is an ad. In short:

When a brand gives an influencer a payment, any posts then promoting or endorsing the brand or its products/services become subject to consumer protection law. Payment means any form of monetary payment; commission; a free loan of a product/ service; a free product/service (whether requested or received out of the blue); or any other incentive.

This means that whenever you receive a payment from a brand, you need to disclose this in any relevant posts (e.g. where you feature or refer to the brand/product/service in any way or where the content was controlled by the brand ...¹

'Payment' is not limited to monetary recompense, but includes any kind of commercial relationship, including being gifted products or being a brand ambassador.

- 2.9. Making clear that an ad is an ad is, on the face of it, an extremely simple ask. The ASA guidance is clear that "consumers should be able to recognise that something is an ad, without having to click or otherwise interact with it". As an "absolute minimum", this means including "a prominent label ... upfront that makes it clear". Mostly, this means using the hashtag #ad, and the guidance notes that other labels, such as 'supported by' or 'associated with', are "riskier". More firmly, the guidance argues against the use of terms which are opaque, such as "aff" (short for 'affiliate marketing') or "spon" (sponsored). In short, influencers are expected to call a spade a spade, and make it crystal clear when an ad is an ad.
- 2.10. For some platforms, it has been made clear in subsequent ASA rulings what these rules also entail. For example, when posting a caption under an Instagram post, it is not acceptable for a user to have to click 'See more' in order to see the hashtag #ad – it should come at the start of the caption and therefore be immediately visible. The presumption of labelling also applies to, for instance, Instagram or Facebook Stories, where each video should be so labelled.
- 2.11. The CMA reinforces these messages in its own guidance, which makes clear that influencers must say when they have been paid, given or loaned things; be clear about their relationship with a brand or business; and be honest about what they are promoting. They highlight examples of unacceptable practice, including:
 - tagging a brand or business in either the text, picture and/or video of a post without additional disclosure ...
 - using ambiguous language without additional disclosure in a post (for example 'thank you'; 'made possible by'; 'in collaboration with'; or 'thanks to ...')
 - unclear use of hashtags, for example ... using #sp; #spon; #client; #collab; etc.²
- 2.12. It is, of course, the case that the platforms which influencers use are constantly evolving, and that influencer marketing expands into new formats (podcasts, for example, or vlogs on sites such as YouTube). In each case, the presumption of disclosure that an ad is an ad applies, although there can be periods where influencers struggle with applying the rules to the format as there are limited examples of good practice.

ISBA's work on influencer marketing

- 2.13. As the trade body representing UK brand advertisers, ISBA has been interested in influencer marketing since its early days, and we have sought to help our members by spreading best practice. In 2016 we issued template contracts for brands seeking to work with influencers; we updated this template in 2018, as well as providing members with templates for working with talent agencies and microinfluencers.
- 2.14. However, at the turn of the decade we were conscious that more needed to be done to help our members meet the common challenges which were being posed by influencer marketing. We observed the growing number of professional bloggers, which the Vuelio Network identified in 2019 as increasing from 34 to 51% in the

¹ CAP/ASA, [Influencers' guide to making clear that ads are ads](#), 2nd edtn., Feb 2020.

² CMA, [Social media endorsements: being transparent with your followers](#) (Jan 2019).

space of three years (of whom blogging was the main source of income for 18%, up from 8% in 2016). What had begun as a niche influencing market in areas such as beauty and fashion was broadening out so that 1 in 5 influencers operated in the 'lifestyle' space, from travel to food & drink. Markets and Markets projected that the international influencer market was set to grow from £4.5 billion in 2019 to £18.4 billion in 2024.

- 2.15. Meanwhile, the phenomenon was also becoming more profitable for those practicing it. A report by Izea, the influencer marketing platform, demonstrated the money which influencers could command. The average price of a sponsored photo on Instagram had increased from £104 in 2014 to £1,276 in 2019. The price of a Facebook status update had increased from just £6 to £306 over the same time period; and that of a Twitter post had increased from £22 to £326.
- 2.16. With this growth came the interest and guidance from the advertising regulatory system, as well as an increasing caseload of complaints about influencer ads to the ASA. Bearing all this in mind, ISBA decided to convene an Influencer Marketing Working Group made up of and led by our members, in order that they could share common challenges and explore solutions.
- 2.17. This group has met every three months since November 2019. Its discussions have focused on the reputational risks for brands when influencers might post something unacceptable or which does not chime with the brand's identity and/or message; the difficulty companies often have in matching up with the right talent; and on the rules around labelling and disclosure, including any differences between individual regulators' expectations and/or the rules for different and emerging formats.
- 2.18. However, the major outcome from the working group has been a proposal for an industry-led and co-designed Influencer Marketing Code of Conduct. This would be put forward as potential industry standard: raising the quality of influencers' posts; signing brands, agencies, and talent up to commonly-held values; and protecting reputations. The draft Code is currently under discussion with representatives from talent agencies, and with a group of influencers themselves.
- 2.19. As it stands, the draft Code contains a number of commitments for all influencer marketing participants. Brands would commit to issuing clear project briefs, with expectations around the intended audience, and an explanation of where and when influencers' content would be displayed. They also commit to being clear around payment processes, and recognise their duty of care to the talent with which they work. They highlight the need to adhere to any public policy imperatives contained in the advertising Codes (such as any changes around HFSS and gambling advertising).
- 2.20. When it comes to agencies, they agree to be the 'gatekeepers' to agreements between brands and talent, including working to ensure that influencers are meeting the brief and that brands' positioning, approach, and values are understood. They also under-take to work with influencers to ensure that disclosure and legal requirements are followed.
- 2.21. Influencers themselves commit to work collaboratively with brands to maintain trust and integrity in advertising, including not sharing views or engaging in behaviour which could contravene equality law. They also agree not to use photo filters or photo-shopping tools which give misleading impressions of products and benefits, recognising that this has been forbidden by the ASA. In common with other parties

to the Code, they also commit to safeguard children, young people, and vulnerable groups who may form part of their followership.

- 2.22. This is not an exhaustive list and there are other commitments included within the Code, and we would be very happy to provide more information to Committee members should it be desired. We hope to launch the Code in tandem with supportive agencies and influencers this year.
- 2.23. We hope that this Code will be an important spur not just to the raising of standards in influencer marketing, but also to a greater understanding by all industry participants of the rules and expectations around the phenomenon. We also hope that it will help drive greater education and awareness among the public at large of the nature of the relationship between brand advertisers and the talent they work with. The ASA's research of 2019 into whether or not the public understands when an influencer is advertising to them was a key driver in the refreshed guidance to talent which the ASA issued last year. That research showed that there was a great deal of uncertainty among consumers as to when they were being advertised to, and underlined the fact that visibility of disclosure messages was key.³ It is our belief that it is incumbent on all participants in the ecosystem – from brands, to tech platforms, to influencers themselves – to be clear about advertising and to adhere to the principle that ads of all forms must be legal, decent, honest and truthful.

³ ASA, [Labelling of influencer advertising](#) (Sept 2019).