

RECOMMENDATIONS

FROM THE COMMUNICATION CENTRE ON INFLUENCERS



1. WHY THESE RECOMMENDATIONS?

In October 2018, the Communication Centre (formerly “Conseil de la Publicité”) published its Recommendations for online influencers. Since then, the Jury d’Ethique Publique (JEP), the independent self-regulatory body of the Belgian communication sector, has dealt with several complaints regarding influencer marketing.

Given the constant change in the communication sector, the importance taken by influencers in the promotion of products and services and the experience acquired by JEP, it seemed necessary to develop these recommendations to bring about the new version below.

The goal of these new Guidelines continues to be to help influencers, advertisers, agencies, media and platforms to:

- **protect the consumer:** the consumer has the right always to know clearly if a post on social networks is an opinion formed from competence or experience, or if it is a commercial communication; and
- **provide legal certainty:** both advertisers & influencers need to know the rules applicable to influence marketing

These new Recommendations have been developed with the support of members of the Communication Center, namely UBA, ACC, VIA, LA PRESSE.be, VNM, WE MEDIA and AEA, and with the collaboration of FeWeb. The Recommendations are supported by these various actors in the communication sector, who strongly encourage influencers, agencies, media and platforms to respect them.



2. WHAT IS INFLUENCER MARKETING?

Influencer marketing is a form of marketing through which companies activate the online influence and relevant sector knowledge from people or “influencers”.

The advertiser wishes to reach his target group in the most targeted and effective way possible, so as to maximise the influence on the consumer positively to regard his brand.

Influencers are influential people who have built a relevant community online. On social networks and websites, influencers function as content creators (instagrammers, youtubers, twitterati, streamers, podcasters, pinterest influencers, TikTokkers, Twitchers,....).

Influencers build their reputation based on their knowledge and interest in a specific subject. They communicate via social media posts (text, audio, video and photo) with a loyal and relevant audience of followers. Well-known personalities, political and corporate leaders, bloggers as well as so-called small influencers fall under this description.

Influencers are increasingly solicited to present advertisers' products and services positively and/or recommend them to their followers, who constitute the advertiser's target market. We can then consider this to be a commercial relationship, which must be clear to the consumer.

3. WHEN IS THERE A COMMERCIAL RELATIONSHIP?

There is a commercial relationship when a **consideration** is received, or there is an opportunity to receive a consideration, **in exchange for your communication**.

The advertiser, or the agency that acts at their request, provides consideration in kind or financially in order to communicate about his brand, his product, his service or his organization.

NB: both the consideration and the service are interpreted very broadly.

A CONSIDERATION IS CERTAINLY NOT LIMITED TO A NEGOTIATED SUM OF MONEY, BUT CAN ALSO BE, FOR EXAMPLE:

- A percentage based on the number of views, "likes" that are generated, ..
- Receipt of free services or products from the advertiser (home delivery of jewelry, invitation to a restaurant, organisation of a trip, a stay in hotels, shipment of food products, ...);
- A payment of a small amount for each click or sale if your content includes a hyperlink or a discount code for certain products or services.

THE SERVICES WITHIN THE FRAMEWORK OF A COMMERCIAL RELATIONSHIP CAN ALSO BE VARIED. THEY CAN BE FOR EXAMPLE:

- Creating/ sharing of (sponsored) content;
- The use of specific brand-related hashtags;
- Placement of affiliate links;
- Competitions and giveaways;
- Product & content collaborations;
- Integrate (branded) swipe-ups, polls, ...;
- Ambassadorships.

CHECKLIST

You will find below a short checklist covering the most important points to consider when communicating about a brand. We will come back to these points in more detail.

- **Did you receive anything from a brand in exchange for a consideration?**
Yes: this is a commercial relationship, and this must be clear in your communication.

Then review this checklist and answer the questions.

- Has a certain number/ minimum number of posts been agreed?
- Does the brand require approval of the post (visuals and/ or copy) before it is published or does the brand require certain content to be included in the publication?
- Has a contract been drawn up for the communication?
- Did you add a code/ hyperlink to your post so that a commission can be earned on clicks or purchases?

You answered yes to one or more of these questions: then always use the statement or hashtag “publicité”

Even if you have not answered yes to any of the questions, the commercial relationship must of course always be clear.

Therefore, always use a statement or hashtag in these cases that briefly and clearly reflects the business relationship, such as “**sponsorisé**” or “**placement de produit**”. In this case too, you obviously remain free to use the term “advertising”, if you consider that this is more in line with your commercial relationship or clearer for your target group.



4. HOW CLEAR SHOULD SUCH A COMMERCIAL RELATIONSHIP BE?



At first glance, it must be immediately clear to consumers that there is a commercial relationship between yourself and the brand.

Consumers shouldn't have to take other steps, like watching the whole video, clicking "more info" or going to a site, only to find eventually that your message is associated with a business relationship.

Influencer marketing often appears alongside editorial content, personal messages or entertaining posts from connections and is usually presented in a very similar 'look & feel'. It is therefore not always immediately obvious for the consumer to know whether he/ she is confronted by this type of content or by commercial content. Also always keep in mind that the commercial nature of your content should also be clear to children if they are part of your target group.

It is therefore up to you in the first place to specify that this is a commercial communication. But your client (the advertiser, agency or other intermediary) is also responsible for communicating the correct guidelines.

If it is not sufficiently clear from the context in which the message appears online that it is a commercial communication, then you must provide a specific notice/ label that identifies the nature of your message.

5. WHAT CLEAR NOTICES/ LABELS SHOULD BE USED?

In any event, we recommend that you systematically use the following labels/ notices so that the nature of your content is always immediately clear to the consumer. Vague statements or little-known abbreviations are not enough.

If it is advertising as explained above:

⇒ Always use the statement “**publicité**” clearly

If it is another type of commercial relationship:

⇒ Then use a statement that briefly and clearly reflects the commercial relationship, preferably “**sponsorisé**” or “**placement de produit**”. In this case too, you obviously remain free to use the term “**publicité**”, if you consider that this is more in line with your commercial relationship or clearer for your target group.

In specific cases, there may be other ways to make sufficiently clear the commercial relationship, but if you use these statements you’re doing it right in our opinion.

The disclosure options offered by the platforms themselves (such as “Paid Partnership”, “Contains commercial communications”, etc.) can certainly help to make the commercial relationship clear, but will not always be sufficient.

6. HOW SHOULD THESE STATEMENTS BE USED?

- First of all, it is important to remember that the aim is and remains to make the commercial relationship immediately clear to the consumer. Be all the more careful when your content targets children!
- Social networks know no (language) borders. Adapt the labels/ statements according to the language of the message or the target group.
- Make sure that these labels/ statements are expressed in a way and in a place such that the consumer directly understands the exact nature of the message, even before the consumer clicks on anything or engages.
- Do not hide these labels/ statements. Ensure that the average consumer notices them during a normal connection with the message. It is therefore recommended to indicate these labels/ statements immediately and clearly in the post.
- These labels/ statements must be appropriate for the platform used. They must also be adapted to all devices (and in particular visible on smartphones & apps).



7. ARE THERE OTHER RULES TO BE OBSERVED?

When it comes to a commercial relationship and you say something about the brand, the product, or service, JEP can then also review the content of your communication with regard to legislation and the advertising codes.

The applicable Codes can be found on the JEP website:
<https://www.jep.be/fr/codes-regles>

Pay particular attention to the rules when it comes to promoting products such as alcoholic beverages, foodstuffs, cars, cosmetics, games of chance, etc.

Also remember that all advertising must be straight with the consumer. The message may not contain incorrect information or mislead the target group with false statements.

8. WHO IS RESPONSIBLE FOR COMPLIANCE WITH THESE RULES?

Whoever places the post, therefore the influencer himself or herself, is primarily responsible for identifying the commercial communication, together with the advertiser, the company for which the commercial content is placed.

If communications agencies are engaged to select, approach or brief influencers, they are also responsible for giving the correct instructions.

Other parties involved in social media marketing may also bear responsibility in this regard. For example, it is the responsibility of platforms to provide influencers and advertisers with guidelines and tools to make a business relationship clear.

9. WHO ARE WE?

The Communications Centre

(<https://www.jep.be/fr/centre-de-la-communication>) is the industry organisation that brings together all the players in the communication sector, themselves represented by their respective associations, namely UBA, ACC, VIA, LAPRESSE.be, VNM, WE MEDIA and AEA.

Since 1974 and thanks to the support of the entire sector, the Communication Centre has devoted a large part of its resources to the Jury of Advertising Ethics, an independent self-regulatory body created within it and equally comprised (half of the members come from the advertising sector and the other half from civil society).

The Communication Centre is the association that organises advertising self-regulation in Belgium. The association thus intends to benefit from the source effect. The Communication Centre therefore concentrates its efforts on promoting self-regulation, notably by strengthening the credibility and effectiveness of JEP, its self-regulatory body. In fact, while advertising is an important driver of our economy and our businesses and contributes to the country's economic growth, employment and prosperity, it also endeavours to be responsible towards society and consumers.

Finally, the Communication Center is the privileged interlocutor of the public authorities, NGOs, the press and the consumer in matters of self-discipline.

The Advertising Ethics Jury (JEP)

(<https://www.jep.be/fr>) is the self-regulatory body of the advertising sector in Belgium whose mission is to ensure the correct and fair character of advertising messages with regard to the public.

It bases its decisions on:

- on the one hand, legislation
- on the other hand, the self-regulatory codes supplementing the legislation and particularly the Code of the International Chamber of Commerce.

The Jury is composed equally (1/2 advertising sector + 1/2 civil society) both in first instance and on appeal.

The Jury of First Instance may address a complaint concerning an advertising message on the initiative of any of the following natural or legal persons and provided that they act for the purpose of defending the interests of the consumer and/ or advertising's reputation: a consumer, consumer organisation, socio-cultural association, professional association, member or representative of an official body or public authority.

JEP's decisions can go so far as to request the adaptation or the ceasing of an advertisement in breach of ethical and/ or legal provisions.

The JEP also fulfills a preventative function in 2 ways.

On the one hand, the review of advertising projects that are submitted to the Jury by advertisers, agencies or media allows them to modify, rectify, or even halt messages that do not comply with the rules of advertising ethics.

On the other hand, by publishing its decisions on its website, the Jury disseminates case law.

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10. HOW CAN JEP HELP YOU?

As set out above, JEP deals with consumer complaints regarding the content of commercial communications. In case of complaints, you will be contacted by JEP to present your point of view.

Nevertheless, JEP also has a preventative role. In case of doubt on the ethical and/ or legal aspects of your commercial communication, you can inquire of JEP before the dissemination of your communication. This procedure is confidential and will not be published on the JEP website. In that event, you can use this opinion request form:

<https://www.jep.be/fr/info-sur-la-procedure-davis>

Given the complexity of the Belgian legal framework (federal and regional legislation), it is possible that regulatory bodies other than JEP have a different interpretation of the applicable legislation in terms of commercial communication.