



## **New Guideline for Influencer Advertisements on Social Media**

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Turkish Advertisement Board recently published a principle decision regarding the commercial advertisements conducted by the social media influencers, that includes specific tags and expressions that should be used by influencers on their social media advertisements.

Guideline on Commercial Advertisement and Unfair Commercial Practices Made by Social Media Influencers<sup>1</sup> (“Guideline on Influencers”) which is accepted with the Advertisement Board’s decision of May 4, 2021 with number 2021/2 is published on the Ministry of Commerce’s official website on May 5, 2021.

“With the advancement of technology and the popularity of social media, consumers are bombarded with the messages of social media influencers throughout their daily lives. Companies pay celebrities or v/bloggers (nicknamed influencers or tastemakers) to endorse their brands. There is no doubt about social media’s – and therefore the influencers’ – potential to reach a wide range of global consumers”<sup>2</sup>. By considering this popularity and effect of social media, the Guideline on Influencers provides rules and principles for the commercial advertisements and practices conducted by social media influencers (“Influencers”) and sets forth obligations by considering different types of social media platforms.

Article 12 of the Guideline on Influencers explicitly states that advertisers, advertisement agencies, and each Influencer would individually be liable for the compliance with the provisions of the Guideline on Influencers. Besides, as per Article 11, advertisers might not refrain from fulfillment of their obligations by stating that the obligations indicated in the Guideline on Influencers are set forth for the Influencers.

It refers to the “social network provider” definition included in the Law on Regulation of Broadcasts via Internet and Prevention of Crimes Committed through Such Broadcasts to define “social media”. In this regard, “social media” means real persons or legal entities that enable users to create, view or share content such as text, images, sound, location for social interaction purposes on the internet medium.

“Social media influencer” is defined as the person who carries out marketing communications to (i) ensure sale and rent of a product or service which belongs to him/her or the advertiser, (ii) inform or persuade the target audience through his/her social media account.

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<sup>1</sup> Full text of the Guideline on Commercial Advertisement and Unfair Commercial Practices Made by Social Media Influencers can be found at <https://tuketici.ticaret.gov.tr/duyurular/sosyal-medya-etkileyicileri-tarafindan-yapilan-ticari-reklam-ve-haksiz-ticari-uyg>

<sup>2</sup> Navigating the Uncharted Risks of Covert Advertising in Influencer Marketing by Gonenc Gurkaynak, Olgu Kama, Burcu Ergun which can be found at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3303159](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3303159)

## Principles

According to the Guideline on Influencers, advertisements should be clear and distinguishable and covert advertisements are not allowed. In other words, “the consumer should be openly made aware that what the consumer is engaging in is indeed a commercial communication<sup>3</sup>”

Also Influencer should clearly provide statement through at least one of the expressions provided under certain articles of the Guideline on Influencers, if Influencer obtains financial benefit, free or discounted product/service from advertiser, depending on the type of the platform.

Tags and expressions that would be provided by the Influencers should meet the following conditions:

(i) They should be easily readable and distinguishable, when the colors and background of the post is considered.

(ii) They should be in a shape and position that the consumers can understand that the post is a commercial advertisement at first glance.

(iii) They also should be visible if the post contains additional tags or expressions.

(iv) Tags and expressions should be provided in a manner that would be distinguishable by the consumers at the first glance, by considering the interface and technical features of the social media platform.

## Obligations of the Influencers

According to the Guideline on Influencers, Influencers should not publish a post in a manner approving and providing experience on a product/service, if she/he has not experienced the product/service before and they should not provide any health declaration against the relevant laws.

Influencers should not provide claims on scientific researches and test results which are not objective, calculable, statistical and provable and they also should not provide advice and marketing on the products and services of doctors, dentists, veterinary, pharmacists and medical institutions.

Influencers should not act in a manner that she/he purchased a product/service, if the product/service is given as a gift from the advertiser. Besides, if Influencer obtains financial

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benefit, free or discounted product/service from advertiser, he/she should not act in a manner that she/he is only a consumer of the relevant product/service.

Guideline on Influencers also brings obligations in terms of the filters or effects used in a social media post. According to this provision, if the Influencer uses a filter or effect during the advertisement of a product/service, he/she should indicate that the filter or effect is used.

Lastly, Influencers should not systematically establish or use fake or non-existing audience to communicate for a product/service.

### Obligations of the Advertisers

Guideline on Influencers also sets forth certain obligations for the advertisers.

Advertisers should inform the Influencers of the provisions of the Guideline on Influencers and request compliance of the Influencers and third parties (if third parties are used by the Influencers) with the relevant laws and regulations including Guideline on Influencers and Regulation. Advertisers should also make an effort for the compliance of the Influencers and take measures against the violations.

As per Article 12 of the Guideline on Influencers, the fact that the posted advertisement which is against the relevant law, regulation and the Guideline on Influencers is corrected or compensated does not eliminate the responsibilities of the advertisers or the Influencers.

### Tags and Expressions

Guideline on Influencers provided different obligations in terms of the social media platforms used for the advertisements.

#### (i) Video sharing platforms (e.g. YouTube, Instagram TV, and live broadcasts)

For the advertisements published on the video sharing platforms, at least one of the following expressions (in Turkish) should be provided verbally and in written form (i) constantly during the video, (ii) at the title or caption of the video, or (iii) at the beginning of the section wherein the advertisement will be provided, without requiring the consumer to click on an additional section such as “read more”.

- “This video contains advertisements of [advertiser].”
- “This video contains paid cooperation with [advertiser].”
- “With the support of [advertiser].”
- “I received these products from [advertiser] as gift.”
- “Thanks to [advertiser] for sending me these products.”



(ii) Photo and message sharing platforms (e.g. Instagram, Facebook, Twitter)

For the advertisements published on the photo and message sharing platforms, at least one of the following expressions (in Turkish) should be provided with the introductory information on the advertiser such as name, trademark, trade name (i) in or under the photo and/or message, or (ii) at the caption of the photo/message.

“#Advertisement”, “#Advertisement/Promotion”, “#Sponsor”, “#Cooperation”, “#Partnership”, “Cooperation with @[advertiser].”, “Provided by @[advertiser].” and “Provided as a gift by @[advertiser]”

(iii) Podcast platforms

For the advertisements published through podcast, at least one of the following expressions should be provided verbally and in written form (i) at the beginning, (ii) in the middle and (iii) at the end of the podcast.

- “This podcast contains advertisement on [advertiser].”
- “This podcast consists of paid cooperation with [advertiser].”
- “With the support of [advertiser].”
- “I received the products (that I mentioned in my podcast) from [advertiser] as gift.”

(iv) Platforms that the content might be viewed for a limited time (e.g. Snapchat and Instagram stories)

For the advertisements published on the platforms that the content might be viewed for a limited time, at least one of the following expressions should be provided with the introductory information on the advertiser such as name, trademark, trade name during the post.

“#Advertisement”, “#Advertisement/Promotion”, “#Sponsor”, “#Cooperation”, “#Partnership”, “Cooperation with @[advertiser]”, “Provided by @[advertiser]”, “Provided as a gift by @[advertiser]”

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