



Social media influencer testimonials and endorsements

Findings of the ACCC's internet
sweep of testimonials and
endorsements by influencers

December 2023



Acknowledgment of country

The ACCC acknowledges the traditional owners and custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.

Australian Competition and Consumer Commission
Land of the Ngunnawal people
23 Marcus Clarke Street, Canberra, Australian Capital Territory, 2601
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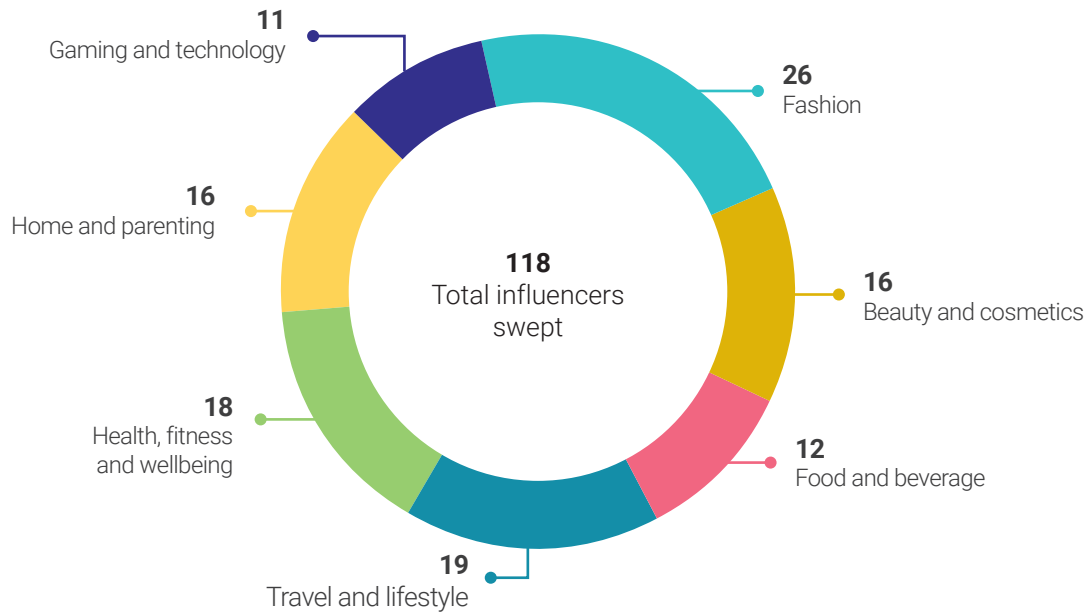
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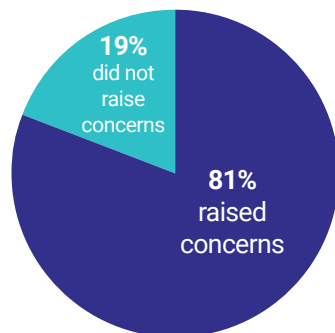
Snapshot of findings

BREAKDOWN OF INFLUENCERS SWEEP



KEY TAKEAWAYS

Overall proportion of influencers identified making concerning posts*



SOME SOCIAL MEDIA INFLUENCERS ARE:

- 1 Not disclosing brand relationships in their posts
- 2 Using vague or confusing language or graphics to describe brand relationships in their posts
- 3 Making incorrect statements about brands, products or services in their posts
- 4 Engaging in other concerning practices – subscription traps, multi-level marketing

SECTORS WITH THE GREATEST PROPORTION OF CONCERNING POSTS



1 Fashion influencers



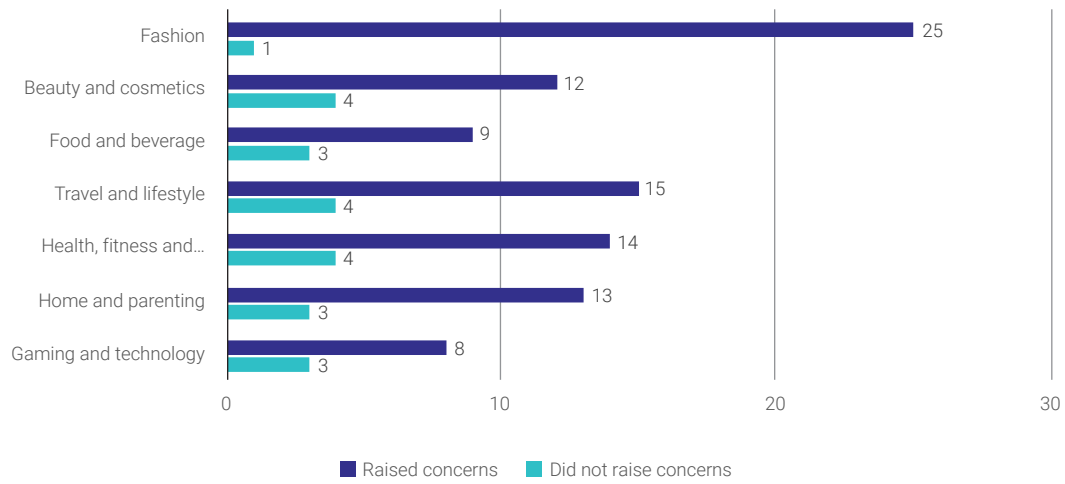
2 Home and parenting influencers



3 Travel and lifestyle influencers

* Prior to conducting the sweep, the ACCC asked the public for tip-offs about influencers who do not disclose advertising in their posts. We received 150 tip-offs via the ACCC's social media accounts which were incorporated into the sweep process. This allowed the ACCC to focus the sweep on influencers that the public considered to be engaging in more concerning behaviour and may have resulted in a higher number of influencers identified as making concerning posts, than if the sweep had been conducted without using these tip-offs. However, the ACCC also conducted organic searches of influencers as part of the sweep, and these influencers also showed a high rate of non-compliance.

NUMBER OF INFLUENCERS MAKING CONCERNING POSTS BY SECTOR*



* The above graph represents the *primary* sector that each influencer operates in. For example, if the greatest proportion of an influencer's posts are about fashion items, but they also post about beauty and travel products and services, they would be classified as a fashion influencer in the above graph.

Background

The rise in social media use over the past few decades has had a significant impact on how consumers view and access content, as well as how they make purchasing decisions. Consumers rely on the opinions of others in deciding which brands, products or services they buy. However, these endorsements or testimonials are even more influential when they are provided by trusted sources such as friends, family or other people that the consumer has a close relationship with.

Similarly, consumers often place trust in the testimonials and endorsements provided by the social media influencers that they follow online. Many influencers are skilled at cultivating personal and seemingly authentic connections with their audience, which invites a feeling of friendship and intimacy. This rapport is often developed by the influencer sharing insights into their personal life, as well as other creative content that appeals to consumers.

However, consumers are harmed when influencers, brands and advertisers take advantage of this trust through hidden advertising in posts by social media influencers. Where an influencer does not clearly disclose in their post that they are being paid or receiving a benefit to promote an item, their followers can be misled into thinking that the influencer is genuinely endorsing that item. This prevents consumers from making informed purchasing decisions, particularly where they place a high degree of trust or reliance on the influencer's recommendations and do not question their motivations for promoting an item.

Misleading social media endorsements can result in competitive harm to businesses. Misleading conduct in connection with the supply of goods or services can unfairly disadvantage those businesses that make accurate and legitimate claims about their products and services.

As noted in the ACCC's [Digital Platform Services Inquiry Report 6](#), the influencer marketing industry, including marketing firms, personal relation firms, brands and brand representatives who work with influencers to create or publish advertising content, has grown significantly in recent years. Influencer advertising models can vary depending on the nature of the agreements between the influencer and the brand or marketing firm, but all are aimed at taking advantage of consumers' trust or reliance on an influencer's recommendations.

Under the Australian Consumer Law (ACL), businesses cannot mislead or deceive consumers. This applies to influencers engaging in trade or commerce, as well as brands and marketers using influencers to advertise online. There are different ways in which influencers and brands may mislead consumers in social media advertising. For example, by:

- Making incorrect statements about their relationship with a brand, product or service.
- Omitting key information in their posts, such as underlying commercial relationships, sponsorships or other incentives received to promote a brand, product or service.
- Disclosing brand relationships in a way that is vague, confusing or hard to notice.

The above types of hidden advertising practices can be extremely lucrative for brands and marketers. By partnering with an influencer to promote goods or services, that brand is able to use the influencer's social capital to persuade consumers to buy items they might not otherwise have purchased. This is different to traditional advertising techniques such as television, radio or print commercials, where a celebrity spokesperson or brand's commercial motivations for promoting a product are much clearer. There are also concerns that this conduct is becoming more pervasive over time as the influencer industry continues to grow.

Consumers can only make informed purchasing decisions when advertising is clearly disclosed in social media influencer posts, and the information provided is accurate and does not omit information likely to influence purchasing decisions. This is important to improving consumer confidence in the online information sources they rely on. It is crucial that influencers, as well as the brands and marketers behind advertising deals, are honest and upfront with consumers about paid advertising in posts. Social media platforms also have an important role to play in ensuring that advertising is clearly disclosed by influencers, including through platform tools, and for removing posts that do not meet their policies.

Influencers and brands that clearly disclose advertising in social media posts experience an unfair competitive disadvantage if there is not greater advertising transparency across the broader industry. For example, if influencers disclosing brand deals make fewer sales than influencers hiding brand deals, this can act as a disincentive for influencers and brands to be honest about the commercial arrangements behind their posts.

The role of industry and other regulators

Beyond the ACL, there are also industry led guidelines which provide a standard for Australian influencer businesses and advertisers. For example, the Australian Association of National Advertisers (AANA) has developed a voluntary Code of Ethics (the Code) as part of its advertising and marketing self-regulation. This code is administered by Ad Standards. Relevantly, the Code requires that advertising shall be clearly distinguishable as such. Where influencers promote a business' brand or product and fail to disclose the existence of a commercial relationship, Ad Standards may determine that the relevant business has breached the Code.

As the Code has been designed for, and adopted by businesses, rather than influencers, Ad Standards does not make formal findings against influencers who are involved in poor disclosure practices.

The Australian Influencer Marketing Council (AiMCO) has developed influencer-specific guidance material for its members, which includes tips on good disclosure practice.

The ACCC will continue to work with these industry bodies and monitor adverse findings made by Ad Standards to assess whether they involve ACL concerns, and take enforcement action where appropriate.

Other government regulators such as the Australian Securities and Investments Commission, the Therapeutic Goods Administration and the Australian Health Practitioner Regulation Authority are also responsible for regulating influencer conduct in their areas of jurisdiction. The ACCC continues to engage with these bodies as part of its ongoing compliance and enforcement efforts in relation to misleading or deceptive social media advertising.

The sweep

To understand the nature and extent of advertising in social media posts made by Australian influencers, brands and marketers, the ACCC conducted an internet sweep ('the sweep'). The sweep took place between 23 January 2023 and 3 February 2023 and looked at a total of 118 individual influencer accounts across social media platforms Instagram, TikTok, Snapchat, YouTube and Facebook, and the livestreaming service, Twitch.

In conducting the sweep, the ACCC targeted seven sectors in which influencer marketing is particularly widespread, and consumers most commonly rely on influencer endorsements to make purchasing decisions. These sectors included:

1. Fashion
2. Beauty and cosmetics
3. Food and beverage
4. Travel and lifestyle
5. Health, fitness and wellbeing
6. Home and parenting
7. Gaming and technology

To assist the ACCC in identifying misleading conduct, consumers, businesses and other industry participants were invited to provide examples and information about misleading conduct by social media influencers. Examples provided by the public focused on non disclosure of commercial relationships in posts made by social media influencers.

The aim of the sweep was to identify posts by social media influencers that contain potentially misleading reviews or endorsements, and which may cause consumer harm. In looking at influencer posts, the sweep focused on whether the posts contained promotional material, and if so, whether an ordinary consumer would understand from the post that the influencer was receiving payment, gifts or other incentives to promote that brand or product.

Brands, advertisers and marketing firms were also a focus of the sweep given their role in facilitating influencer posts which may potentially include misleading testimonials and endorsements. For example, advertisers and marketers often set terms in contractual agreements with influencers outlining how they must promote brands in their posts.

Prior to conducting the sweep, the ACCC also asked the public for tip-offs about influencers who do not disclose advertising in their posts. These tip-offs were received via the ACCC's social media accounts and provided valuable insights into potential sweep targets. In total, over 150 tip-offs were provided by the public which were incorporated into the sweep process.

The use of tip-offs allowed the ACCC to focus the sweep on influencers that the public considered to be engaging in more concerning behaviour and may have resulted in a higher number of influencers identified as making concerning posts, than if the sweep had been conducted without using these tip-offs. However, the ACCC also conducted organic searches of influencers as part of the sweep, and these influencers also showed a high rate of non-compliance.

While the sweep primarily focused on monitoring the accounts of prominent Australian influencers with large followings, influencers with smaller followings were also monitored. This allowed the ACCC to identify the extent to which these smaller influencers may use different advertising practices compared to larger influencers. For example, smaller influencers may seek to build and maintain more seemingly authentic relationships with their followers to add greater legitimacy to their hidden advertising posts. They may also be looking to attract a different segment of the advertising market, such as local small businesses, compared to larger influencers seeking larger national brand deals.

The sweep was not intended to identify specific breaches of the ACL. The ACCC has undertaken further work to determine whether influencer posts flagged as being of concern during the sweep may be in breach of the ACL.

Key issues identified in the sweep

1. Not disclosing brand relationships in posts

The most common issue identified in the sweep was influencers not disclosing whether they are receiving payment, gifts or other incentives to promote brands, products or services in posts. This issue was identified in high proportions across all sectors swept.

For example, some influencers are:

- Tagging or thanking brands in posts.
- 'Sharing' posts made by brands, or posts by other users praising those brands.
- Prominently featuring brands or products in their photo or video posts.
- Posting promotional or discount codes or website referral links, which indicates a possible commission-based sales arrangement between the brand and influencer.
- Not consistently using platform advertising disclosure tools.
- Not disclosing that they own a brand or business where this affiliation is unclear.

Although the above factors may suggest a commercial arrangement between the influencer and brand, without explicit disclosure of this, a consumer may be misled into thinking it is a genuine, unsponsored endorsement. The influence that these endorsements yield over consumers is also demonstrated by the number of comments observed on posts confirming that consumers wanted to buy products, or had bought products, due to the influencer's post about that item.

Some influencers would also respond to individual comments from users on their posts to further encourage or direct them toward purchasing items. Examples included fashion influencers responding to queries from followers on the style or size of dress they were modelling, or where that item might be in stock in different locations. These responses to consumer queries often further praised the item, with some influencers also placing pressure on consumers to purchase quickly due to limited stock or the potential to miss out. When this direct encouragement or pressure is applied by the influencer, it is likely to have a greater influence on consumer purchasing behaviour than traditional advertising techniques.

2. Vague or confusing attempts at disclosing brand relationships

Another common issue identified in the sweep was influencers using vague or confusing language to describe their relationships with brands or to disclose advertising in posts. Examples of these vague or confusing terms include 'sp', 'spon', 'sponcon', 'collab', 'creativepartner', 'ambassador' and other similar abbreviations. These terms are confusing to consumers and unlikely to offset any misleading impression created by an influencer's post.

Many influencers also formatted their posts so that the disclosure was difficult for consumers to notice or pay attention to. Examples included:

- Disclosures appearing at the very end of lengthy captions, often requiring the user to click 'more' on the caption to view the disclosure.
- Verbal disclosures by influencers only appearing at the end of a lengthy video.

- Mixing advertising disclosures into a long list of other hashtags and links in captions.
- Making advertising disclosures in the description of video posts, without also mentioning or repeating the disclosure in the video itself.
- Using small or hard to read font or graphics, such as a #ad in white font on a white background, or using less noticeable font or graphics only for the 'ad' hashtag.
- Initially disclosing a brand relationship in a post, but then failing to make any similar disclosures in later posts made about that brand.
- Using disclosures only on their social media account bios but not in individual posts.

3. False or inaccurate statements about a brand, product or service

Throughout the sweep, there were concerns that a small number of influencers may be making incorrect statements about brands, products or services. This included claims that:

- Influencers had purchased items themselves when they may have been gifted.
- Influencers had organically selected items to include in 'favourite' product lists when some of these items may have been selected due to their relationship with that brand.
- The influencer had a particular history or experience with a product they may not have tried, or which may not reflect their actual experience of using the product.

These types of statements are misleading to consumers when they are untrue, as it inflates or distorts their impression of a particular brand, product or service and influences them to purchase a product they may not have otherwise purchased (or may have been less likely to purchase).

4. Other types of concerning conduct

The ACCC also identified some other examples of concerning conduct during the sweep that did not relate to advertising disclosure but may breach other provisions of the ACL. Some of these practices were more common in some influencer sectors than others and included:

- **Multi-level marketing schemes.** Some influencers in the health, fitness and wellbeing sector sought to promote multi-level marketing schemes disguised as ordinary health programs. These courses involved encouraging followers to sign up to sell wellbeing programs and recruiting others to do the same to earn commission from sales. In some instances, these schemes may breach the pyramid selling provisions of the ACL depending on the individual circumstances and nature of the scheme being promoted.
- **Subscription traps.** Some influencers sought to promote free trials for services such as fitness programs, which required consumers to provide their credit or debit card details up front to access the free trial. The terms and conditions of these service agreements were often hard to locate and complex, meaning consumers may not understand the fees that are imposed after the free trial ends, and may find it difficult to cancel the subscription once the free trial had ended. Information about subscriptions should always be set out clearly and prominently, otherwise it may be misleading under the ACL.

The ACCC will be examining these practices to determine whether there are specific concerns with certain influencers and/or brands requiring compliance or enforcement action.

The sweep also identified some concerning deceptive practices by influencers and brands that were used to influence consumer purchasing behaviour. The ACCC will continue to monitor these practices. Examples of these practices included:

- The use of 'confirm shaming' tactics, which involved captioning promotional posts in a way that guilted or shamed followers into making a purchase. This was particularly common among influencers in the home and parenting sector. These included posts which implied that if followers did not make the purchase or follow a certain lifestyle, they may not be acting in their child's best interests.
- Predatory and manipulative advertising. A small number of influencers targeted their followers' insecurities or vulnerabilities to sell products or services in an exploitative manner. For example, selling expensive 'body positivity' courses to assist consumers to overcome negative thoughts about their own self-image. Other posts targeted sensitive topics such as fertility issues to promote associated health products.

Sector observations

In addition to the key issues identified above, we also observed some sector specific trends. However, in making these observations, it is noted that:

- There is often significant overlap between the sectors that influencers market in. For this reason, influencers were categorised according to the sectors below based on the *primary* sector they operate in. For example, if the greatest proportion of an influencer's posts are about fashion items, but they also post about beauty and travel items, they would be classified as a fashion influencer in the sweep.
- As noted above, many of the influencers targeted in the sweep were identified from public tip-offs about influencers suspected to not be disclosing advertising in their posts. This may have resulted in a higher number of influencers detected as making concerning posts.

Influencer sector observations



Fashion

- 96% of fashion influencers swept made concerning posts.
- The most common platforms used by fashion influencers to promote goods included Instagram and TikTok and often took the form of shopping or 'get ready with me' style videos or photo series posts.
- The most common brands involved in potentially misleading posts were 'fast fashion' brands targeted at younger consumer demographics.



Home and parenting

- 81% of home and parenting influencers swept made concerning posts.
- The most common concern identified was influencers displaying products in posts, and tagging household goods, furniture and children's brands and products without disclosing if this was sponsored content.
- Parenting influencers also commonly featured their children in promotional posts (or managed accounts on behalf of their children, known as child influencer accounts).



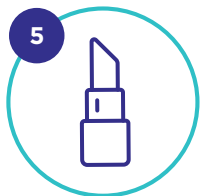
Travel and lifestyle

- 79% of travel and lifestyle influencers swept made concerning posts.
- The most common concern identified was influencers promoting travel services and destinations without disclosing if these trips had been gifted, discounted or incentivised.
- Travel and lifestyle influencing is particularly popular with niche influencers with smaller followings who use their local knowledge of regions to promote businesses operating in that area.



Health, fitness and wellbeing

- 78% of health, fitness and wellbeing influencers swept made concerning posts.
- Influencers in this sector commonly promoted their own brands and businesses, so their relationship to these brands was often clearer in these instances.
- However, some influencers engaged in other concerning practices – such as promoting multi-level marketing schemes, subscription traps, and engaging in predatory advertising such as targeting body image issues to sell products.



Beauty and cosmetics

- 75% of beauty and cosmetics influencers swept made concerning posts.
- Influencers often promoted beauty items to younger consumer demographics using 'get ready with me', make-up tutorial and product review video posts. Influencers often did not disclose if products featured were gifted or sponsored by a brand.
- Some makeup brands were more commonly promoted than others – suggesting these brands heavily rely on influencer marketing and may need to improve their disclosure practices.



Food and beverage

- 75% of food and beverage influencers swept made concerning posts .
- Influencers often marketed food and beverages within travel advertising – for example a broader holiday promotion including dining experiences and attractions.
- Other concerns included influencers tagging hospitality venues in posts, as well as food and beverage brands in recipe posts, without disclosing if these products and experiences were gifted or sponsored.



Gaming and technology

- 73% of gaming and technology influencers swept made concerning posts.
- Influencers often promoted products and services on TikTok and the livestreaming service Twitch – targeting younger consumer demographics in posts/streams.
- The most common concerns included undisclosed product placement – such as gaming equipment in livestreams – and promoting trips to play pre-release games without disclosing if trips were sponsored.

What the ACCC will do

The sweep has identified several high-level concerns across the influencer sectors targeted. The ACCC has conducted further analysis of these issues and is undertaking education, compliance and enforcement activities where appropriate.

This will include releasing updated guidance material for influencers, brands and advertisers. The ACCC will also engage directly with businesses and industry associations to improve their compliance with the ACL. Educational material for consumers will also be released to raise public awareness regarding common influencer marketing and advertising practices.

Where concerns have been identified with specific influencer posts, we will assess these to verify whether they contain commercially sponsored content, and if so, whether they may be misleading given the lack of adequate advertising disclosure. We will also consider other potential breaches of the ACL identified during the sweep that do not relate to advertising disclosure issues.

We will also consider the role of brands, advertisers, marketing firms and platforms in facilitating this conduct. The ACCC's [Digital Platform Services Inquiry Report 6](#) focused on the provision of social media services, including sponsored posts and influencer advertising. We will continue to build upon this work in our future compliance and enforcement activities.

The ACCC encourages consumers and businesses to contact the ACCC to report any potentially misleading advertising or other conduct by social media influencers, brands or advertisers. Consumers and businesses can make a report through the ACCC website or by contacting the ACCC Infocentre on 1300 302 502. Data from these reports helps inform what we investigate and what enforcement action we may take. It also helps to inform our compliance and education activities, industry engagement, advocacy, and research.

