

Social Media Influencers and Legal Responsibility: Journalism, Advertising and Consumer Protection

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Abstract:

Social media influencers now shape what Indians buy, believe and discuss. They sell products, review services, explain the news and sometimes act like reporters. Yet the law was written for newspapers, television channels and manufacturers, and not for a single person with a phone and a million followers. This article asks a simple question: who is legally responsible when an influencer misleads the public? It studies three areas together: journalism, advertising and consumer protection. The method is doctrinal. It reads the Consumer Protection Act, 2019, the 2022 Guidelines on misleading advertisements, the 2023 "Endorsement Know-hows", the Advertising Standards Council of India (ASCI) influencer guidelines, the Information Technology Act, 2000 and the rules under it, and relevant court decisions. It also uses published ASCI complaint data, with charts and a liability flowchart, to show how often influencers break the rules and how the system responds. The article finds that the rules on paper are fairly strong but enforcement is weak, most action is voluntary, penalties are rare, and influencers who report news fall in a gap between press law and advertising law. It ends with practical suggestions: a clear legal definition of "influencer", mandatory disclosure tools on platforms, shared responsibility among brands, agencies, platforms and influencers, a simple registration for news influencers, and public education.

Key Words: Social Media Influencers; Misleading Advertisements; Endorsement; Consumer Protection Act, 2019; Disclosure; ASCI; Digital Journalism; Platform Liability.

1. Introduction

A few years ago, people bought a product after seeing an advertisement on television or reading a review in a newspaper. Today many people buy after watching a short video from a creator they follow. The creator may be a fitness coach, a food blogger, a stock market "guru" or a young person who simply talks about daily life. Followers trust this person like a friend. Brands know this and pay influencers to speak well of their products. ASCI's own study of one list of top digital creators found that these 100 creators together reach more than 110 million followers.[1]

This trust is the power of the influencer, but it is also the danger. If an influencer hides the fact that a post is paid, praises a product without trying it, or makes a false health claim, followers may lose money or harm their health. If an influencer posts news and rumours without checking facts, the public may be misled about important events. Unlike a newspaper, an influencer has no editor, no lawyer, no ethics committee and often no clear idea of the law.

Indian law has begun to respond. The Consumer Protection Act, 2019 defines a "misleading advertisement" and lets the Central Consumer Protection Authority (CCPA) punish both the maker of an advertisement and the person who endorses it.[2] In 2022 and 2023 the government issued guidelines and a short guide on endorsements by celebrities and influencers. ASCI, the self-regulatory body for the advertising industry, issued its own influencer guidelines in 2021. Courts have also said that commercial advertising is a form of speech protected by Article 19(1)(a) of the Constitution, but protection is limited when the advertisement is false or harmful.[3]

Still, important questions remain. Is an influencer a "journalist" when he or she reports news? Is the influencer, the brand, the advertising agency or the platform responsible for a false claim? Why are violations so common even after the rules are clear? This article answers these questions in simple language. Part 2 explains who an influencer is. Part 3 looks at influencers and journalism. Part 4 studies the legal framework. Part 5 analyses data from ASCI reports. Part 6 explains liability with a flowchart. Parts 7 and 8 discuss gaps and suggest reforms, and Part 9 concludes.

2. Who Is a Social Media Influencer?

2.1 Meaning

No Indian statute gives a full definition of "influencer". The government's 2023 guide on endorsements describes an influencer as a person who has access to an audience and the power to affect what that audience buys or thinks, because of the person's knowledge, position or relationship with followers.[4] The guide also includes "virtual influencers", meaning computer-made characters that act like real people online. ASCI's guidelines use a similar idea. They apply to any person who has built a following and promotes a product or service, in return for money, free goods or any other benefit.[5] The key legal idea in all these documents is the "material connection". This means any link between the influencer and the brand that could affect how the audience sees the post. It includes payment, free products, discounts, travel, a job, a family tie, or a share in the business. When such a link exists, the influencer must disclose it clearly.

2.2 Types of influencers

In the industry, influencers are often grouped by the size of their following. These groups are only a business habit and have no legal force, but they help to understand who has more power and so more responsibility.

Type	Usual follower range	Typical activity	Main legal risk
Nano	Under 10,000	Local recommendations, small brands	Not knowing the rules; forgetting disclosure
Micro	10,000 to 100,000	Niche reviews (food, beauty, fitness)	Undisclosed paid posts; untested

			claims
Macro	100,000 to 1 million	Brand campaigns across platforms	Misleading claims reaching many people
Mega and celebrity	Over 1 million	National campaigns, film and sports stars	Higher duty of care; large public impact
Virtual	Computer- generated	Fashion and tech brand campaigns	Unclear who is the "speaker" and who is liable

2.3 Why influencers matter to the law

Influencers are different from traditional advertisers in three ways. First, the line between content and advertisement is thin. A friendly review, a travel diary and a paid promotion can look exactly the same to a viewer. Second, influencers work alone or in small teams, so they often lack legal advice. Third, their posts spread quickly across many platforms and cannot easily be taken back. These features make it easy to deceive an audience, even without a bad intention.

Because of this, the law treats an influencer as an "endorser". An endorser is any person who, for payment or other benefit, speaks in favour of a product, whether by words, pictures or actions. The next parts show how this idea links influencers with advertising law, consumer law and, in some cases, press law.

3. Influencers and Journalism

3.1 When an influencer acts like a journalist

Many influencers do more than sell products. Some explain the budget, discuss elections, report on accidents or comment on court cases. Some record videos on the spot and upload them before any newspaper can. This is a form of "citizen journalism", and it has real value. It can bring local stories to national attention, challenge official claims and give a voice to groups that mainstream media ignores. The Supreme Court has said that free speech on the internet, including the right to share information and opinion online, is protected by Article 19(1)(a), and that any restriction must meet the tests of necessity and proportionality.[6]

But the same power creates risk. A news influencer is free from the checks that a newsroom provides. There is no editor to question a source, no legal team to review a risky claim, and often no habit of correcting errors. Some influencers also mix news and advertising. A video that looks like an independent news analysis may in fact be paid for by a company or a political group. When this happens, followers cannot tell whether they are watching journalism or marketing.

3.2 The accountability gap

Indian law has different rules for different media. Newspapers fall under the Press Council of India, which was created to preserve press freedom and maintain standards for newspapers and news agencies.[7] Television news falls under the Cable Television Networks (Regulation) Act and its Programme Code. Online news websites and digital news portals fall under the Code of Ethics in Part III of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.[8] That Code applies to a "publisher of news and current affairs content", and the definition

excludes an individual user who is not sharing content as part of a systematic business, professional or commercial activity.[9]

An individual influencer who posts news-like content therefore often falls between the rules. The table shows how the position differs by platform.

Type of speaker	Main rule or body	Ethics code applies?	Real consequence for a false or misleading post
Newspaper	Press Council Act, 1978	Yes, Norms of Journalistic Conduct	Warning or censure
News television channel	Cable Act and Programme Code; NBDSA for members	Yes	Apology, fine or order from government
Online news portal	IT Rules, 2021, Part III	Yes, in theory	Grievance process; blocking orders
News-style influencer (individual)	General law only (defamation, contempt, IT Act)	Usually no	Takedown by platform; court case if someone sues
Influencer promoting a product	Consumer Protection Act, 2019; ASCI	Advertising rules, not journalism rules	Penalty and ban from endorsing

The last two rows show the gap clearly. An influencer who sells a product is covered by advertising and consumer law. An influencer who shares news is covered mainly by the general law, such as defamation and contempt of court, which only works after a person has been harmed and has gone to court. The influencer who does both, selling under the cover of news, may be regulated by neither in a practical sense.

3.3 Why this matters

A false statement from a newspaper can be corrected and may lead to a complaint before the Press Council. A false statement from an influencer may travel to millions of people and disappear with no record. The public is also less able to judge its reliability, since the influencer's face and voice seem friendly and trustworthy. The law has to protect the right of citizens to speak and report freely, but it also has to protect the right of citizens to receive honest information. The suggestions in Part 8 try to meet both needs without silencing independent voices.

4. Legal Framework for Advertising and Consumer Protection

4.1 Constitutional position

Advertising is a form of speech. In *Tata Press Ltd. v. MTNL*, the Supreme Court held that commercial speech, including advertising, is protected by Article 19(1)(a) because the public has a right to receive commercial information.[10] But the protection is not unlimited. Earlier, in *Hamdard Dawakhana v. Union of India*, the Court had held that an advertisement offering a cure for diseases was not protected speech, because its purpose was trade and it could harm the public.[11] Taken together, these cases

mean that truthful advertising is protected, while false and harmful advertising can be controlled. This is the base for all the rules that follow.

4.2 The Consumer Protection Act, 2019

The Act is the main law. It defines a "misleading advertisement" as one that gives a false description of a product or service, makes a false guarantee, creates a wrong impression that amounts to an unfair trade practice, or hides important information on purpose.[12] It also defines an "endorsement" as a message, statement or picture in an advertisement that consumers are likely to believe reflects the opinion or experience of someone other than the advertiser. An influencer's review of a paid product is clearly such an endorsement.

The Act created the Central Consumer Protection Authority (CCPA), which can order a misleading advertisement to be stopped or changed, and can punish the advertiser and the endorser.[13] The main consequences are shown below.

Provision	Who is liable	Consequence
Section 21: order to discontinue or modify	Manufacturer, advertiser, endorser	Direction to stop or change the advertisement
Section 21: civil penalty	Manufacturer or endorser	Up to ₹10 lakh; up to ₹50 lakh for later violations
Section 21: ban on endorsing	Endorser	Up to one year; up to three years for later violations
Section 21: defence	Endorser	No penalty if the endorser shows due diligence to check the claims
Section 89: criminal punishment	Manufacturer or service provider who makes the misleading advertisement	Up to two years' imprisonment and fine up to ₹10 lakh; up to five years and ₹50 lakh for later offences

The "due diligence" defence is important for influencers. It tells them that they cannot safely repeat a brand's claims without checking. A sincere effort to verify the claim, for example by using the product or asking for test reports, is a defence. Blind repetition is not.[14]

4.3 The 2022 Guidelines and the 2023 Endorsement Know-hows

In 2022 the CCPA issued the Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements. They set conditions for a valid advertisement, ban surrogate and bait advertisements, and require endorsers to act with due diligence.[15] In January 2023, the Department of Consumer Affairs published "Endorsement Know-hows" for celebrities, influencers and virtual influencers. It tells them to disclose any material connection in clear words such as "advertisement", "sponsored", "collaboration" or "paid promotion", in the same language as the post, in a place where the audience cannot miss it. For video, the disclosure should appear in the video itself and

be spoken, and for live streams it should be shown continuously.[16] It also warns influencers to promote only what they have used or experienced and to avoid posting claims that cannot be proved.

4.4 ASCI self-regulation

ASCI's Code for Self-Regulation of Advertising Content and its Guidelines for Influencer Advertising in Digital Media (effective in June 2021) require influencers to use a clear label such as #ad, #sponsored or #collab, and to place it where it is easily seen in the first few lines of a caption or at the start of a video.[17] The ASCI system is voluntary and fast. It accepts complaints from anyone, a Consumer Complaints Council reviews them, and most advertisers and influencers change the post when asked. When they do not, ASCI can refer the matter to the government. ASCI has no power to impose a fine.

4.5 Other laws that apply

Several other laws affect influencers in specific fields. Health influencers must follow the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, which bans advertisements that claim to cure listed diseases.[18] In a major case on misleading medical advertisements, the Supreme Court in 2024 required advertisers to file a self-declaration before publishing and made it clear that endorsers, including celebrities and influencers, share responsibility for what they promote.[19] Financial influencers ("finfluencers") who give investment advice may need to be registered under the SEBI (Investment Advisers) Regulations, 2013.[20] Platforms are "intermediaries" under the Information Technology Act, 2000, and keep their safe harbour only if they follow due diligence duties and act on lawful takedown orders.[21] And a person defamed by an influencer can use the defamation provisions of the Bharatiya Nyaya Sanhita, 2023, or a civil suit.[22]

5. Empirical Analysis

5.1 Data and method

This part uses published data from the Advertising Standards Council of India (ASCI), which is the only body that has published yearly counts of influencer-related complaints over several years. No new survey was run, and no figure has been created for this study. The numbers come from ASCI's annual and half-yearly complaints reports. They have limits. ASCI counts what it examined, and much of its work is its own monitoring, so the numbers are a sign of the pattern and not a count of every violation in India. The counting basis also changed slightly between years, so comparisons should be read with care.

5.2 Influencer cases over time

Period	Influencer-related items processed by ASCI	Basis in the report
2022-23	2,039	Complaints processed against influencers; about 26% of ads processed[23]
2023-24	1,702	Cases processed under the Influencer Guidelines[24]
2024-25	1,015	Influencer ads investigated; 14% of ads processed; 98% needed modification[25]

April to September 2025	1,173	Influencer ads processed in six months; 98% needed modification[26]
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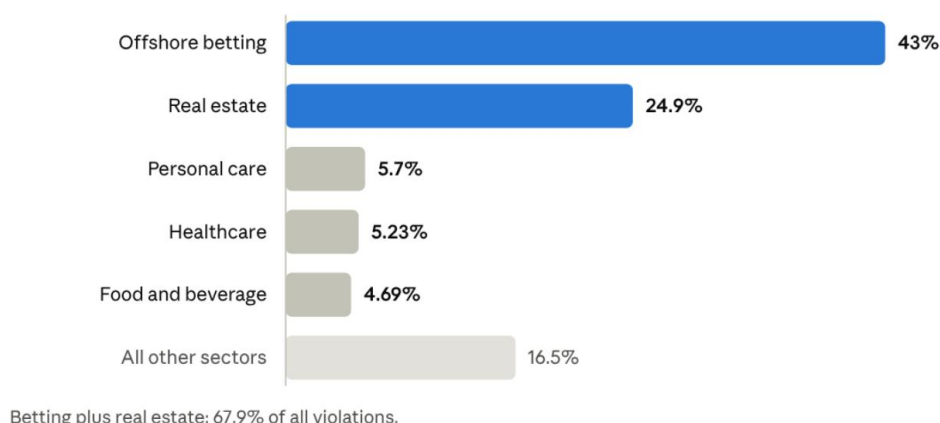
The table shows two things. First, the share of influencer cases fell from about 26% to 14% of ASCI's work between 2022-23 and 2024-25. This does not mean that influencers improved. ASCI widened its work to other high-risk areas, mainly offshore betting and real estate. Second, the count of influencer ads in only the first half of 2025-26 was already higher than in the whole of 2024-25. In every period the figure for "needed modification" is very high, at 98%, which means that almost every influencer post that ASCI examined broke a rule, most often by failing to disclose a paid link.

5.3 Which sectors break the rules

The chart shows the sectors with the most violations in 2024-25. Offshore betting alone accounted for 43% of violations processed, and real estate for another 24.9%.[27] Personal care, healthcare and food and beverage each accounted for a smaller share. These are the same categories in which influencers are most active. ASCI has also reported that many influencers promoted offshore betting platforms without disclosing paid partnerships.[28]

Two sectors made up 68% of ASCI-flagged violations in 2024-25

Share of violations processed by ASCI, percent. Betting and real estate in blue.



Betting plus real estate: 67.9% of all violations.

Figure 1 · ASCI Annual Complaints Report 2024-25 and exchange4media summary · sector shares

5.4 Compliance and enforcement

ASCI's data also shows how the system responds. The overall rate of voluntary compliance, meaning that the advertiser or influencer changed the content when told, was 83% in 2024-25 and rose to 88% in the first half of 2025-26.[29] In 2024-25, 59 influencers corrected their posts voluntarily after ASCI contacted them, five did so after a decision of its Consumer Complaints Council, and five influencer-related advertisements were sent to the Ministry of Information and Broadcasting for continued non-compliance. [30] ASCI also found 121 influencer posts on LinkedIn, where professionals had not disclosed paid links, showing that the problem is not limited to entertainment platforms.

5.5 What the data tells us

Three conclusions follow. First, non-disclosure is the most common influencer violation, and it is easy to correct, which suggests that many violations come from ignorance or carelessness more than from planned fraud. Second, the system relies heavily on voluntary correction. This is fast, but it means that most violators face no penalty at all, and only a tiny number of cases reach the government. Third, the most harmful categories, such as betting and health claims, are the ones where self-regulation is weakest, because the advertisers are often outside India or difficult to trace. Better data would help future research, such as the number of CCPA orders against influencers and the amount of penalty actually collected, but these figures are not yet published in a form that allows analysis.

6. Who Is Responsible? A Liability Map

When an influencer's post misleads people, several parties may share responsibility. The flowchart below follows a single post through three simple questions: Is there a paid or other material link? Was it disclosed clearly? Is the claim true and checked?

Liability follows disclosure and truth: both must be right

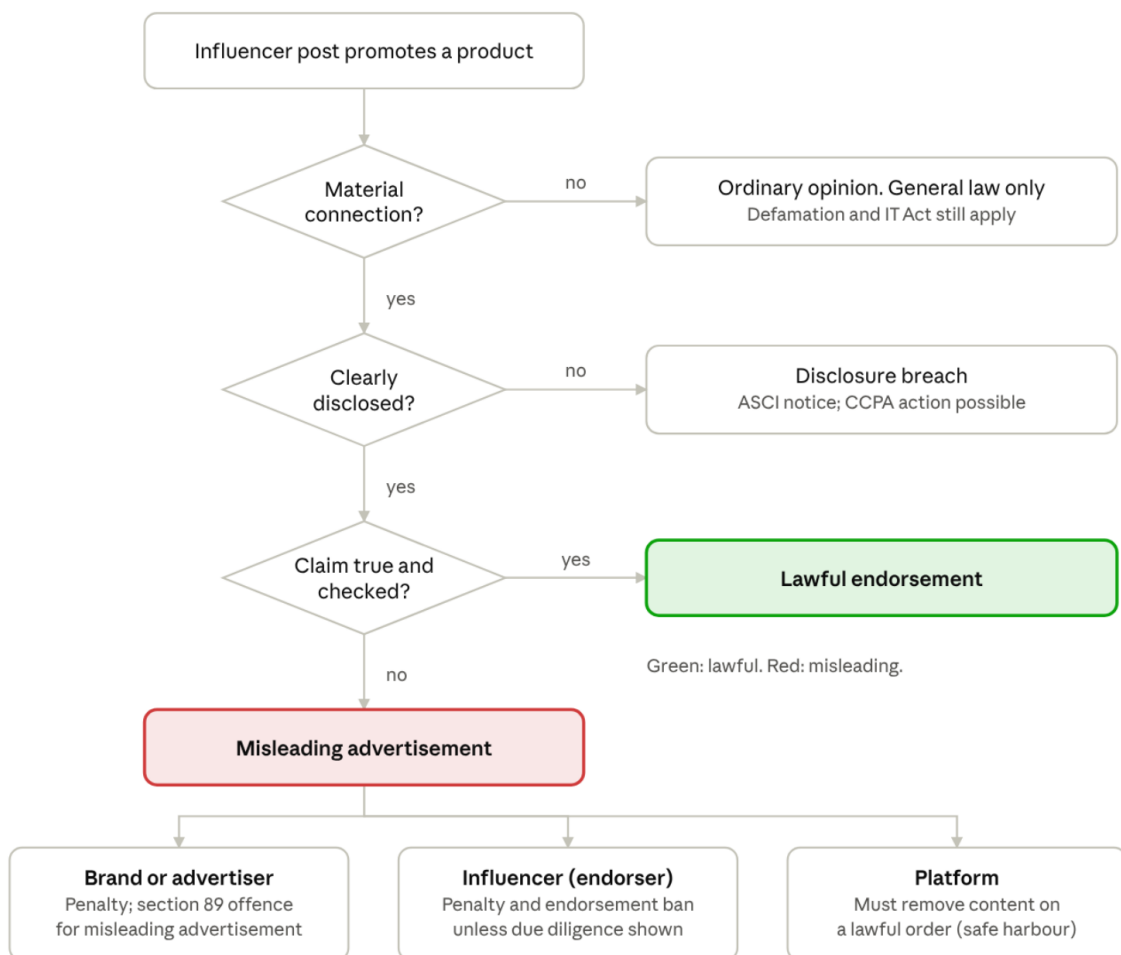


Figure 2 · liability of influencer, brand and platform · 3 decisions

The chart shows that disclosure and truth are separate duties. A post with a clear "#ad" label can still be misleading if the claim is false, and a post with a true claim can still break the rules if the paid link is hidden. Each party has a different role.

The brand or advertiser carries the main responsibility, since it creates the claim and pays for its spread. The Consumer Protection Act can punish the advertiser with a penalty, and the criminal provision can lead to imprisonment.[31] A brand cannot avoid liability by saying that the influencer wrote the post, because the brand chose the influencer and approved or paid for the campaign.

The influencer is liable as an endorser. The influencer can be fined and banned from endorsing for a period, but can escape a penalty by proving that due diligence was done. [32] Practical due diligence includes using the product, asking for test reports or licences, refusing claims that sound too good to be true, and making a clear disclosure.

The advertising agency or talent manager, if one is involved, is not named in the Act as a separate category, but it can be treated as an advertiser or as someone who has helped in the unfair trade practice. Agencies should include disclosure and truth checks in their contracts.

The platform is not responsible for what each user posts, so long as it acts as a neutral intermediary and follows due diligence duties. It loses this safe harbour if it does not remove unlawful content after a lawful order.[33] In practice, platforms offer "paid partnership" labels, but use of these labels is voluntary, and ASCI has noted that their use remains low and visibility limited.[34]

ASCI has no legal power to punish. It can only ask for changes, publish its findings, and refer repeat violators to the government.

This shared model works best when every party does its own part. The difficulty today is that each party can point to another, and enforcement against individual influencers, who are many and small, is slow and costly.

7. Gaps and Challenges

No clear definition. The law speaks of "endorsers" and "advertisers" but nowhere defines an "influencer". Because of this, the rules for a nano influencer with a few thousand followers and for a mega influencer with millions of followers are the same, even though their reach and power are very different. The "Endorsement Know-hows" are a guide based on the Act, not a separate law, so their disclosure rules are enforced only through the general provisions on misleading advertisements.[35]

Weak enforcement. The strong penalties exist, but ASCI's own data show that the system runs mainly on voluntary correction, with almost every examined influencer ad needing a change and only a handful of cases reaching the government.[36] Published information about penalties actually imposed on influencers, and ban orders actually issued, is limited. A rule that is rarely enforced does not change behaviour.

Blurred line between content and advertisement. Disclosure labels are used inconsistently. Many influencers hide a label among a long list of hashtags, use unclear words such as "thanks" or "gifted by", or bury the disclosure in the middle of a video. Platforms provide "paid partnership" tools, but their use is optional.

The gap for news-style influencers. As Part 3 showed, an influencer who shares news-like content as an individual is not covered by the press codes, and is also not an "advertiser" unless paid. Sponsored political or commercial content that is presented as independent news may therefore go unnoticed.

Offshore and anonymous advertisers. Betting and similar platforms are often based outside India and use influencers as their face. It is hard to punish a foreign company, and an individual influencer who earned a small fee may face the whole legal burden.

Protection of vulnerable audiences. Children and young people follow influencers closely and are more likely to trust them. Health, diet, education and investment claims can do serious harm. The Supreme Court has already warned that endorsers share responsibility in the field of medical advertising,[37] but the same strong approach has not been applied across all sectors.

Limited awareness. Many small influencers do not know the rules, and many followers do not know that a post is paid. ASCI's own trust survey found that transparency about brand links is the first reason followers trust an influencer, which shows that honest disclosure helps influencers too.[38]

8. Suggestions

The suggestions below aim to protect consumers and the public without silencing honest creators.

1. **Define "influencer" in law.** Parliament or the CCPA should add a simple definition based on audience reach and material connection, and may set stricter duties for influencers above a certain reach or for sensitive fields such as health, finance and education.
2. **Make disclosure easy and standard.** Platforms should be required to offer a visible, built-in "paid promotion" label, and to ask creators to tick it when a post has a material connection. Labels should stay on screen for the whole video or live stream.
3. **Shared responsibility in contracts.** Brands and agencies should include clauses in every influencer contract requiring disclosure, proof for each claim and approval of claims. A brand should not be able to blame the influencer alone for a claim that it supplied.
4. **Faster, joined-up enforcement.** The CCPA and ASCI should work under a clear protocol, so that ASCI's findings, especially repeat violations, are passed on quickly to the CCPA for action. A public register of orders, penalties and endorsement bans should be kept.
5. **Clear rules for health, finance and children.** Influencers should be required to show qualifications before giving medical or investment advice, and special care should apply to products aimed at children.
6. **Code of ethics for news influencers.** Rather than a heavy licensing system, India should create a light, voluntary code for creators who report news or current affairs, with basic duties: verify facts, correct errors quickly, disclose funding and political links, and separate news from opinion and advertisement. A simple "declared" mark could allow viewers to see who follows the code.

7. **Platform duties.** Platforms should act quickly on lawful notices, reduce the reach of repeatedly flagged accounts, and publish reports on removals. They should also work with ASCI to flag undisclosed posts.

8. **Action on offshore advertisers.** The government should block offshore betting platforms and act against their local promoters, so that small influencers are not left to carry the whole legal burden.

9. **Education and training.** Short, free training on disclosure and honest claims should be offered to creators, ideally through platforms, agencies and ASCI's academy. Schools and colleges should teach media literacy, especially how to tell news from advertising.

10. **Better data.** The CCPA, ASCI and platforms should publish simple yearly data on complaints, orders, penalties and the time taken, so that future research can measure whether the rules work.

Balancing free speech and consumer protection

These steps would regulate commercial promotion and misleading claims, which the Constitution allows, and would leave opinions, criticism and independent reporting free. The heavier controls are placed on the commercial side, where payment and trust are involved, and the lighter touch on the news side, where free speech needs more protection.

9. Conclusion

Social media influencers have become a new kind of public voice. They advertise, advise and sometimes report the news, all with the trust of a friend. India's laws on advertising and consumer protection already reach them. The Consumer Protection Act, 2019, the 2022 Guidelines, the 2023 Endorsement Know-hows and ASCI's guidelines all say one simple thing: if you are paid, say so; and if you make a claim, be sure it is true.

The study found, however, that the practice lags behind the rules. ASCI data show that almost every influencer post that was examined needed a correction, that most of the system depends on voluntary change, and that a very small number of cases reach the government. The law has no clear definition of an influencer. Influencers who share news-like content sit in a gap between press law and advertising law. And foreign advertisers, especially in betting, use local creators to reach Indian audiences.

The answer is not to treat every creator as a media house, and it is not to leave the field to goodwill. A balanced approach would define the influencer in law, make disclosure simple and automatic through platform tools, share responsibility among brands, agencies, influencers and platforms, enforce penalties in a visible way, and offer a light, voluntary ethics code to those who report news. With these steps, the trust that makes influencers powerful can be protected, and consumers can rely on what they see.

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