

CODE OF CONDUCT ON ADVERTISING THROUGH INFLUENCERS

2025



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Comunicar para crear valor



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This text is unofficial English translation of the official texts in Spanish.
The Spanish's version will prevail in case of discrepancies.

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INTRODUCTION

Influencer marketing involves the promotion of specific brands, products or services through influencers, using the positive impact that they can have on consumer perceptions.

INFLUENCERS

In general, an influencer can be defined as a natural or legal person acting on their own behalf or through a virtual entity, as a content creator with sufficient influence on digital platforms (such as Facebook, Instagram, TikTok, Twitch, YouTube, or X, among others). Although they may be referred to by different names, they are sometimes also called "bloggers", "vloggers", "Youtubers", "Instagrammers", "Tiktokers", and/or "Streamers".

Advertising through influencers or influence marketing is not only growing due to the emergence of new platforms and models of audience interaction; we can also observe an increase in advertising investment in this discipline. In the Estudio de Inversión Publicitaria en Medios Digitales 2024¹ a growth of 23.9% in investment in online influencer marketing compared to the previous year can be observed, reaching an investment throughout 2023 of 79.2 million euros. This growth is, in percentage terms, the highest after connected TV and digital audio, exceeding other more consolidated areas such as investment in search, social media or display. Moreover, the growth is sustained, since the same 2023² Study already confirmed growth of 22.8% compared to the data reported for 2022. The aforementioned data include all advertising investment allocated to influencer marketing in the digital environment, considering only online investment and not offline, and belonging in turn to the category of controlled investment (information provided by study participants, including influencer representation agencies).

In practice, influencers' commercial activity, when carried out in collaboration with brands for the publication of content, is performed, among other ways, by mentioning products or services, featuring products in their messages, taking part in the production of content, or disseminating content related to the product or service, for the purpose of promotion.

The use of this advertising strategy is, in principle, lawful, without prejudice to the fact that it, like any other action of an advertising nature, is subject to the applicable legislation and, in particular, to what legal doctrine has termed the "principle of authenticity" or "principle of identification of advertising", derived from the prohibition of surreptitious advertising contained in the Unfair Competition Act and other sectoral legislation. To avoid situations of surreptitious advertising, consumers must be able to recognise when they are faced with content of a promotional nature, distinguishing it from other editorial content that influencers can potentially produce.

1. Estudio de Inversión Publicitaria en Medios Digitales 2024.
<https://iabspain.es/estudio/estudio-de-inversion-publicitaria-en-medios-digitales-2024/>

2. Estudio de Inversión Publicitaria en Medios Digitales 2023.
<https://iabspain.es/estudio/estudio-de-inversion-publicitaria-en-medios-digitales-2023/>

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In 2020, the Spanish Association of Advertisers (aea) and the Association for the Self-Regulation of Commercial Communication (AUTOCONTROL), aware of this reality and committed since their inception to promoting responsible advertising, promoted the first version of this Code of Conduct in order to establish a set of rules binding on all those affiliated with aea and AUTOCONTROL, as well as any other companies in the sector (advertisers, agencies, representatives, media) or influencers who voluntarily adhere to it.

During the five years since its entry into force, the Code has proven to be a useful tool to improve the quality of advertising through influencers. Evidence of this is the continuous incorporation of new signatories, including IAB Spain and its members. Committed to the objectives of the Code, this association now joins as co-holder of the Code together with aea and AUTOCONTROL.

Over these years of application of the Code, the AUTOCONTROL Advertising Jury, responsible for resolving any complaints that may be lodged for non-compliance with the ethical rules contained in the Code, has developed extensive doctrine regarding its criteria for interpretation and application. Such doctrine is incorporated in this second version with the aim of helping signatories ensure that their advertising complies with the principles of the Code.

Furthermore, over these years, regulatory changes have taken place which made it advisable to update the Code, and which have resulted in this version.

At European level, it is worth highlighting, on the one hand, the adoption of the Digital Services Act ³, which establishes some of the requirements for advertising on online platforms and emphasises the need for recipients of the service to be able to identify, clearly, concisely and unequivocally and in real time, the advertising nature of content. On the other hand, the new version of the Commission Notice - Guidance on the interpretation and application of Directive 2005/29/EC on unfair commercial practices⁴ dedicates a specific section to influencer marketing.

The European Commission has also carried out various initiatives related to advertising through influencers which should be borne in mind. Thus, the **Digital Fitness Check** (review of the adequacy of EU consumer laws for digital fairness), aimed at analysing whether current EU consumer protection laws are adequate to ensure a high level of protection in the digital environment, describes the issues that need to be addressed in relation to advertising through influencers. Likewise, the **Influencer Legal Hub** provides a collection of audiovisual materials

3. REGULATION (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a single market for digital services and amending Directive 2000/31/EC
<https://iabspain.es/estudio/estudio-de-inversion-publicitaria-en-medios-digitales-2024/>

4. Commission Communication - Guidance on the interpretation and application of Directive 2005/29/EC of the European Parliament and of the Council on unfair business-to-consumer commercial practices in the internal market.
<https://iabspain.es/estudio/estudio-de-inversion-publicitaria-en-medios-digitales-2023/>

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and texts intended to offer basic guidance on European consumer protection rules. These materials are intended for influencers and also for content creators, advertisers and agencies, and were prepared with the purpose of informing them of their obligations, as well as consumers' rights in this area.

At national level, the General Audiovisual Communication Act⁵ – which entered into force in 2022 – extended its scope of application to video-sharing platform services and to users of special relevance who use such services⁶. Accordingly, those users meeting the requirements to be deemed such are also considered audiovisual media service providers and are required to register in the State Register of Audiovisual Media Service Providers, being subject to supervision and sanctions by the National Commission on Markets and Competition (CNMC) and obliged to comply with additional rules in relation to their commercial communications. In 2024, the Royal Decree specifying the requirements to be deemed a user of special relevance entered into force⁷.

Likewise, regarding such users of special relevance, the General Audiovisual Communication Act expressly encourages the adoption of self-regulation codes of conduct – such as this one – for the purpose of fulfilling the obligations established for them and, in particular, those relating to commercial communications accompanying or inserted into their audiovisual content.

In the field of self-regulation, it should be noted the new edition of the **International Chamber of Commerce (ICC) Advertising and Marketing Communications Code**⁸ includes specific provisions for advertising carried out through influencers.

In turn, the European Advertising Standards Alliance (EASA), the body that brings together European national self-regulatory organisations and the main associations representing the advertising industry, of which AUTOCONTROL is a member, has published an updated Best Practice Recommendation on Influencer Marketing Guidance⁹ and has launched the **DiscloseMe** tool to help influencers, advertisers and agencies understand how to properly disclose influencer advertising in accordance with the legal rules and codes of conduct in force in each country.

5. Law 13/2022, of July 7, General Law on Audiovisual Communication. <https://www.boe.es/buscar/act.php?id=BOE-A-2022-11311>

6. Article 2.13 of Law 13/2022: “video-sharing platform service” service where the principal purpose of the service or of a dissociable section thereof or an essential functionality of the service is devoted to providing, through electronic communication networks, programmes, user-generated videos, or both, to the general public, for which the video-sharing platform provider does not have editorial responsibility, in order to inform, entertain or educate as well as issuing commercial communications, and whose organisation is determined by the provider, among other means, with automatic algorithms, in particular by displaying, tagging and sequencing”. (unofficial translation).

7. Royal Decree 444/2024, of April 30, regulating the requirements for being considered a user of special relevance of video sharing services through platforms, in accordance with Article 94 of Law 13/2022, of July 7, General Law on Audiovisual Communication. https://www.boe.es/diario_boe/txt.php?id=BOE-A-2024-8716

8. https://www.iccspain.org/wp-content/uploads/2024/09/ICC_2024_MarketingCode_2024.pdf

9. EASA Best Practice Recommendation on Influencer Marketing Guidance 2023. https://www.easa-alliance.org/publications/best-practice-recommendation-on-influencer-marketing-guidance_v2023/

ETHICAL RULES

1. SUBJECTIVE SCOPE

Companies affiliated with aea, AUTOCONTROL and IAB Spain, as well as influencers, influencer agencies, advertising agencies and other companies that adhere to this Code, undertake to comply, in their commercial communications, with the rules contained herein.

2. REGULATORY COMPLIANCE

The content of advertising messages must comply with the legal and ethical rules applicable to them, with particular attention to sector-specific advertising regulations in areas such as alcoholic beverages, gambling activities, financial products and services, etc.

Users of special relevance within the scope of application of the General Audiovisual Communication Act must, furthermore, regarding the audiovisual commercial communications they disseminate, comply with the provisions there of, as well as those of its implementing regulations.

3. PROMOTION OF THE CODE

Companies adhering to this Code shall inform influencers of its existence and encourage their possible adherence to it.

Agreements or contracts entered with influencers shall include the requirement to comply with these ethical rules. For these purposes, the influencer service provision and image rights assignment agreement template prepared by aea may be used.

ETHICAL RULES

4. DETERMINATION OF ADVERTISING CONTENT

For the purposes of this Code, all mentions or content – graphic, audio or visual – shall be deemed to be advertising mentions or content where, cumulatively:

- a. they are intended to promote products or services; and
- b. they are disseminated within the framework of collaborations or reciprocal commitments, and the dissemination of such content is subject to payment or other consideration, as defined in Rule Five of this Code, by the advertiser or its representatives.

Mentions or content intended to promote products or services marketed under distinctive signs owned by the influencer shall also be deemed to be advertising mentions or content.

In the absence of conclusive evidence, the advertising nature can be asserted following an assessment of the existence of indicia derived from the characteristics of the mention or content itself, or from the circumstances under which such content is disseminated. Such indicia may include:

- Evidence of prior or future collaboration between the brand and the influencer.
- Simultaneous dissemination within the same period of identical or similar messages, content or hashtags relating to a particular brand by other influencers or by the brand itself through its own media or networks or those of third parties.
- Mention of specific prices for products or services of a particular brand or advertiser, or the presence of discount codes for products or services of a particular brand.
- Direct calls to purchase the products or services of a particular brand or advertiser.
- Repeated references in the message to the products or services of a specific advertiser or brand, omitting any reference to similar competing products or services.

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- Editorial control over the disseminated content, understood as, for example, where the advertiser or its agents suggest or propose the tone, structure or direction of the message; where a positive review or opinion is requested; where a specific number of posts on a particular digital platform is required; or where it is requested that the service/product be shown or mentioned in a post.
- Repetition of messages or content relating to the products or services of a particular brand.
- Prominence or focus given to a specific advertiser or brand.
- The use of a markedly laudatory tone towards the products or services of a particular advertiser or brand, as well as expressing gratitude towards a particular brand.
- Lack of novelty or editorial or personal interest in the content (the content contains nothing other than the promotion of the product or service of a particular brand).
- The presence of affiliate links to the products or services of a particular brand or advertiser.

Conversely, content of a purely editorial or personal nature shall not be deemed advertising and, therefore, shall not be subject to this Code.

5. COMPENSATION

For the purposes of rule 4(b) of this Code, the following, among others, shall be deemed consideration: direct payment (or indirect payment through agencies), free delivery of a product, free entry to events, free provision of a service, including complementary services such as, for example, make-up, hairdressing, courtesy vehicle, accommodation or catering; affiliate links; gift vouchers; gift bags; and trips.

ETHICAL RULES

6. DUTY OF IDENTIFIABILITY

The advertising nature of the mentions made by influencers, or of the digital content disseminated by them, where it is deemed advertising, must be identifiable by its recipients.

Where such advertising nature is not clear and manifest from the mention or content itself, an explicit indication must be included, immediately and in a manner appropriate to the medium and message, stating the advertising nature of such mentions or content.

- a. For this purpose, the preferred use is recommended of the mechanisms offered by the digital platforms themselves to identify content as advertising. For example, *"incluye contenido promocional"* on YouTube, *"contenido promocional"* or *"colaboración de pago"* on TikTok, or *"colaboración pagada con [marca]"* on Instagram.
- b. Clear generic indications must be used, such as: *"publicidad"*, *"publi"*, *"en colaboración con"*, *"colaboración pagada"*, *"Embajadora de [marca]"*, or *"patrocinado por"*.
- c. Conversely, generic or unclear indications must not be used, such as: *"información"*, *"legal"*, *"Colab"*, *"Sponso"*, *"sp"*, *"Gracias a [marca]"*, *"Regalo de [marca]"*, *"Viaje patrocinado"*, etc.; nor indications in a language different from that of the communication, such as *"Ad"* or *"Advertising"*.

The mere inclusion of the brand hashtag must not be, in itself, sufficient to identify the advertising nature of the content.

- d. The indication regarding the advertising nature of the mention or content must be inserted at the beginning of the commercial message in a clearly visible manner. Accordingly, indications that appear mixed with other information (for example, alongside other hashtags) or that require the user to take an action (for example, clicking *"ver más"* or *"más"*) must not be sufficient.

Anexo I provides recommendations on how to disclose the advertising nature depending on the digital platform.

- e. Where content subject to this Code is shared or reposted on other networks, platforms or websites, the indication regarding its advertising nature must be maintained or added, as appropriate.

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f. In the case of audiovisual commercial communications disseminated by users of special relevance, regard must be had to the disclosure provisions applicable depending on the type of commercial communication concerned in accordance with the General Audiovisual Communication Act and its implementing regulations.

7. INTERPRETATIVE CONSIDERATIONS

For the purposes of interpreting this Code, account shall be taken of the fact that, as provided in the second paragraph of Article 7 of Unfair Competition Act 3/1991, where the communication medium used imposes space or time limitations, in assessing the existence of an omission of information, such limitations and all measures adopted by the trader or professional to convey the necessary information by other means shall be taken into account.

Likewise, in the absence of an objectively defined profile, the average consumer accustomed to following an influencer shall be understood to be an active consumer familiar with new information technologies, generally attentive and informed, with sufficient capacity to access and understand digital media and autonomy to search, discriminate and adapt online content during their browsing process according to their tastes or interests.

8. UNDERAGE INFLUENCERS AND CHILD PROTECTIONS

Commercial communications made by underage influencers must be based on a contract providing for the explicit consent of the parents or guardians – who shall be responsible – and protecting the minor against any undue exploitation.

The contract must also be signed by the minor, giving their consent, where their level of maturity allows, and in any event where minors between 14 and 18 years of age are concerned.

Particular respect must be given to the minor's right to honour, personal and family privacy and to their own image, in accordance with Organic Law 1/1982 of 5 May on Civil Protection of the Right to Honour, Personal and Family Privacy and Personal Image.

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Content in which minors appear must be appropriate to their age:

- a. It must not include statements or visual presentations that are harmful to their physical, mental or moral development.
- b. It must, in all cases, comply with the general and sector-specific legal and ethical rules regarding minors' participation in commercial communications and commercial communications directed at minors.

In this regard, the mechanisms offered by digital platforms must be used to protect minors from commercial communications that can be harmful to their physical, mental or moral development.

9. THIRD-PARTY DISTINCTIVE SIGNS

Commercial communications must not contain, either explicitly or implicitly, references to third-party distinctive signs, except in cases legally or contractually permitted or in the case of lawful comparative advertising.

Thus, reference to third-party trademarks or distinctive signs is subject to a strict regime set out in the legal rules on trademark rights and unfair competition.

10. ABSENCE OF A LINK WITH THE BRAND

It shall be considered misleading for influencers to claim or imply that content is sponsored or commissioned by a company when they have no collaboration agreement with it.

11. ARTIFICIAL INTELLIGENCE

Where the commercial communication is generated or substantially modified using artificial intelligence systems, the applicable legal requirements must be complied with. In addition, the necessary precautions must be adopted to prevent such use of artificial intelligence systems from being liable to mislead.

ETHICAL RULES

12. LIABILITY

Liability for infringement of this Code may extend to all parties involved in the commercial communication.

However, a party may be exonerated from liability if it sufficiently evidences that the infringement is the consequence of an isolated and manifest failure by the influencer to comply with the indications or instructions given.

Where it is concluded that the promotional mention or content has been disseminated exclusively at the influencer's initiative, without any intervention or relationship whatsoever on the part of the advertiser or its agents, liability, where applicable, may be attributed exclusively to the influencer or its agents.

RULES OF APPLICATION

A. BINDING NATURE OF THE CODE

1. Member companies of aea, AUTOCONTROL and IAB Spain, and other companies that voluntarily adhere to it, undertake to comply, in their influencer advertising actions, with the rules contained herein, and to accept and immediately comply with the content of the decisions issued by the AUTOCONTROL Advertising Jury for the resolution of complaints submitted in relation to this Code.
2. The list of companies and influencers adhering to the Code shall be made public.

B. INTERNAL PRIOR CONTROL AND COPY ADVICE®

1. Companies must establish internal control measures aimed at ensuring compliance with the ethical rules contained in this Code.
2. Where a company or an influencer has doubts as to the legal or ethical correctness of an advertising mention or content, they can submit it to the AUTOCONTROL Technical Office for prior examination through the voluntary, confidential and non-binding pre-clearance consultation system, which shall act in accordance with its Regulations.

In order to address the particular features of influencer advertising, AUTOCONTROL provides a specific service called Copy Advice® Briefing Influencers, which allows the legal and ethical correctness of the briefing to be provided to influencers to be assessed.

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C. EX POST CONTROL: ADVERTISING JURY

1. In addition to companies that have adhered to this Code, the following can lodge complaints for infringement of its rules before the Advertising Jury: aea, AUTOCONTROL, IAB Spain, Public Administrations, any company or professional business association, as well as consumer associations and individual consumers, or other persons, entities or groups not included in this list.
2. For the effective application of this Code and the processing and resolution of any complaints filed for infringement of this Code against the advertising of companies adhering to it, the AUTOCONTROL Advertising Jury shall act in accordance with the principles of independence, transparency, adversarial procedure, effectiveness, legality, freedom of choice and the consumer's right of representation, and shall proceed in accordance with its Regulations and the procedures and fees established by AUTOCONTROL.
3. The decisions issued by the Advertising Jury in application of this Code shall be immediately communicated to the interested parties for compliance.
4. The decisions shall be made public through their publication on the website or through other means of aea, AUTOCONTROL and IAB Spain.

D. EX POST CONTROL: MONITORING

1. Without prejudice to other evaluation or monitoring actions that AUTOCONTROL can carry out for the application of this Code, with the agreement of aea, AUTOCONTROL and IAB Spain, AUTOCONTROL may carry out monitoring exercises to assess the degree of compliance with the rules contained in this Code by companies and influencers adhering to it.

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E. MONITORING COMMITTEE

1. For the monitoring of this Code, a Monitoring Committee is established, with a mixed composition, which shall be made up of representatives of aea, AUTOCONTROL and IAB Spain and shall meet periodically.

F. ENTRY INTO FORCE

1. This Code of Conduct shall enter into force on 1 October 2025.

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Remember that, according to the provisions of the Code:

- ✓ The preferred use is recommended of the mechanisms offered by the digital platforms themselves.
- ✓ The influencer must ensure that the platform's advertising disclosure remains visible when content is shared or reposted. If this is not the case, the disclosure must be included following the recommendations below.
- ✓ Disclosure of advertising nature mixed with other information, included at the end of a chain of hashtags or in the “*ver más*” section, is not sufficient.

RECOMMENDATION



BLOGGER

Include the identifying word or tag in the title of the post.



DISCORD

Include the identifying word or tag in the title or at the beginning of the message or post or state it aloud before speaking about the promoted product or service. Likewise, the advertising nature of the content may be included in the channel's title or subtitle.

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FACEBOOK

Include the identifying word or tag in:

- **Publication or post:** at the beginning of the text or on the image or video from the start.
- **Story:** at the beginning of each story, on the image or video.
- **Video/Reel:** at the beginning of the text or on the image or video from the start. In the case of live streams, the indication must be included from the start of the promotional action.



INSTAGRAM

Include the identifying word or tag in:

- **Publication or post:** at the beginning of the text or on the image or video from the start.
- **Story:** at the beginning of each story, on the image or video.
- **Video/Reel:** at the beginning of the text or on the image or video from the start. In the case of live streams, the indication must be included from the start of the promotional action.



PINTEREST

Include the identifying word or tag in the title of the post or superimpose the identifying word or tag on the content itself.

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REDDIT

Include the identifying word or tag in the title of the message, post or community.



SNAPCHAT

Include the identifying word or tag at the beginning of the message.



SPOTIFY

Include the identifying word or tag in:

- **Exclusive audio format:** in the description or cover, or state it aloud before talking about the promoted product or service.
- **Video podcast or Clip:** from the start of the promotional action. Likewise, the identification of the advertising nature may be included in the title of the live broadcast or video or in the description so that the identifying word or tag is directly visible before accessing the content.

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THREADS

Include the identifying word or label at the beginning of the message or superimpose the identifying word or label on the image or video content itself.



TIKTOK

Include the identifying word or tag in:

- **Publication or post:** at the beginning of the text or on the image or video from the start.
- **Live streams:** from the start of the promotional activity.
- **Story:** at the beginning of each story, on the image or video.



TWITCH

Overlay the word or identifying tag on the live stream, video or short while commenting on the product or service or say it aloud before talking about the promoted product or service.

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VLOGS

Overlay the word or identifying tag while discussing the product or service or say it aloud before talking about the promoted product or service.



X

Include the word or identifying tag at the beginning of the message or superimpose the word or identifying tag on the image or video content itself.



YOUTUBE

Include the identifying word or label in:

- **Vídeo, short, live stream:** it must be included from the start of the promotional action. It may also be included verbally before talking about the promoted product or service.

The tag provided by YouTube may be included if the advertising message is broadcast at the same time or at times or stages close to it.

- **Publications:** at the beginning of the text or on the image or video from the start.

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