

Civil Liability of Influencers for Product Endorsements That Harm Consumers

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ABSTRACT

With the development of digital marketing, influencers now become influential actors in promoting products through social media. In the context of increasing endorses for illegal, dangerous, and even misleading products, it becomes important to explore the legal issues relating to civil liability when consumers lose money. The purpose of this research is to determine the legal standing of influencers and the grounds for civil liability for misleading product endorsement which leads to consumer loss. In order to achieve the objective, this paper tries to analyze the legal standing of influencers and how the misleading act during endorsement can be considered as unlawful acts according to civil liability principle. The method employed here is descriptive analytical approach by using normative juridical method. The findings show that influencers may be subjected to civil liability if the endorse act contains misleading content, no transparency and causes the consumers to suffer any loss.

Keywords: *Civil Liability, Consumer Protection, Unlawful Acts*

INTRODUCTION

In recent years, several changes have taken place in the world of marketing, particularly due to the advent of influencer marketing. As reported by some sources, global expenditure on influencer marketing will keep increasing to hit billions of US dollars each year, from 2021 onwards. In only four years, this sector has experienced tremendous growth to reach from \$4.6 billion in 2018 to \$13.8 billion in 2021. For the coming year 2025, the estimate is that market size will exceed \$24 billion. This does not affect the ability of this strategy to provide tangible earnings, as it provides an ROI of \$5.78 per dollar invested in the process.[Szarek-Orlecka, J. (2025). Implications of The Development of The Digital Economy: Influencer Marketing as a Tool To Shape Consumers. *Zeszyty Naukowe Akademii Górnośląskiej*, (28), 125-131] Another study carried out by influencer marketing Hub indicated that 90% of respondents deemed the marketing technique effective, and 72% felt that influencer marketing efforts engaged their customers better. The role of social media is becoming more prevalent as a promotional platform with Instagram being frequently used by marketers. Other emerging platforms include TikTok and Twitch. The data shows that the majority of consumers admit to being influenced by recommendations given by influencers when deciding on a product. This situation could place endorsements in the category of commercial practices with serious legal implications, especially if the promoted product causes harm to consumers.

The increase in cases of illegal product promotion, distribution, or failure to meet safety standards has made influencers' civil liability increasingly important. According to research there has been an increase in customer complaints about beauty products promoted by influencers without evidence. In an international context, a similar phenomenon has been studied.¹ Consumers can suffer financial and health losses if they disclose weak commercial relationships (disclosure) with alleged excessive support. Even the World Health Organization (WHO) has shown that the use of influence to promote unhealthy foods to children is a danger to consumer and public health. This data and trend show that the risk of harm caused by the growth of endorsements is becoming a structural problem in the digital ecosystem. The lack of clarity regarding the scope and type of influencer liability when consumers suffer losses is the main issue behind this topic. In general, consumer protection laws regulate the liability of business actors, but the role of influencers is often ambiguous. Are they merely promotional intermediaries, business partners, or even responsible for the content of product claims? A series of comparative studies show that there are differences in the approaches of countries such as the United States, the United Kingdom, Canada, China, and the Association of Southeast Asian Nations in determining the liability of influencers through advertising law, consumer protection, and the doctrine of tort. This has led to legal uncertainty, especially in determining the elements of fault, causality, and the basis for claims for damages against influencers.² Based on this context, this article aims to systematically analyze the form and basis of civil liability of influencers for product endorsements that harm consumers by examining developments in legislation and law enforcement practices. The objectives of this article are to determine (1) the legal position of influencers in the legal relationship between businesses and consumers in conducting digital endorsement practices and (2) whether misleading endorsement actions can be classified as unlawful acts based on the principle of civil liability. Thus, this discussion is expected to build a theoretical and practical foundation to strengthen consumer protection in the growing digital marketing ecosystem.³

LITERATURE REVIEW

There have been various scholarly works on how digital marketing has grown to become such an influential marketing method especially when it comes to influencer marketing. Most people tend to define influencer marketing as a type of marketing that uses people who have a large following to market specific goods or services. From the most current research, influencers are seen as more trustworthy and relatable compared to normal advertisements.⁴ Due to this tendency, marketers now view personal branding and engagement with the audience as some of the most important aspects that affect the process of decision making. With regard to the legal aspect, the involvement of influencers into the economy causes certain problems concerning the legal position of influencers. According to the classical legal theory, the business organization is typically viewed as the primary subject of liability. Nonetheless, researchers propose to consider influencers not only as intermediaries but as actual promoters who distribute the information aimed at forming the consumers' perception of goods and services. As such, they belong to the group of people who might be considered responsible for any damage inflicted upon consumers.

Civil liability, especially with regard to an unlawful act, plays a major role in determining the accountability of the influencers. Civil liability generally entails several aspects that need to be present for the violation to qualify under

¹ Nufus, F., & Iskandar, H. (2025). Unlawful Endorsements: Examining Influencer Liability for Illegal Product Promotion. *Jurnal Mahkamah: Kajian Ilmu Hukum dan Hukum Islam*, 327-334.

² Hapsari, D. R. I., & Zahra, D. A. A. (2023). Legal Liability for Celebrities Promoting Goods Through The Instagram Platform. *Indonesia Law Reform Journal*, 3(3), 345-365.

³ Hacoen, U. Y. (2025). Unjust Endorsement. *Forthcoming University of Illinois Law Review*.

⁴ Saputra, V., & Putra, M. R. S. (2026). Legal Responsibility of Influencers in Unauthorized Product Endorsements: An Analysis of Toxic Influencer Marketing Practices in Indonesia. *JlHK*, 7(2), 1208-1219.

this form of liability, such as an unlawful act, fault, whether intentional or negligent, damage, and causation. According to legal scholars, misleading endorsements through exaggerations and non-disclosure of sponsorships meet the conditions of these four criteria. In essence, negligence is a state where the influencers should reasonably do something to prevent any potential harm from their actions to other people. The importance of obtaining true and precise information is emphasized throughout various consumer protection literature since the right to receive clear, non-deceptive, and true information is a critical aspect of consumer law. Research has shown that the infringement of the said right occurs mostly in online marketing campaigns, where it is difficult to distinguish whether the content is purely subjective or sponsored. Therefore, the lack of transparency on the part of the influencer who fails to disclose his commercial ties is the main factor responsible for the consumer being deceived.⁵

METHODOLOGY

Specifications of this study are descriptive-analytical, which include the description and analysis of factual and legal norms relating to civil liability of influencers in digital endorsements that are damaging to consumers. The methodology used in this paper is normative-juridical, whereby the analysis and verification of secondary sources of information about laws, rules, doctrines, and legal literature related to civil liability and consumer rights are done.⁶ The data obtained is analyzed qualitatively and juridically by considering the hierarchy of laws and regulations so that there are no conflicts between legal norms, as well as to assess the extent to which legal certainty and legal protection can be provided to consumers in endorsement practices in the digital era.

DISCUSSION

The Legal Position of Influencers as Subjects of Civil Liability



Figure 1: Influencers on Duty

Source: PINTEREST (2026)

Based on Figure 1 The development of digital marketing has positioned influencers as actors who play a strategic role in influencing consumer decisions through product endorsements on social media. In civil law, influencers can no longer be viewed as completely neutral parties, because their promotional activities have legal consequences if they cause harm to consumers. Research shows that influencers have legal responsibility when the information they convey is proven to be misleading or does not correspond to the actual condition of the product. Influencers can also be categorized as part of the business actors in the promotional distribution chain because they play an active role in

⁵ Putri, A. N. H., Purwaningrum, N. S., Dewi, R. S., & Pangestuti, E. (2024, December). INFLUENCERS LIABILITY TOWARDS CONSUMERS FOR PRODUCTS PROVEN TO BE OVERCLAIMED. In *INTERNATIONAL SEMINAR* (Vol. 6, pp. 1-8).

⁶ Bisaria, C., Madhubala Kumari, D. S. S., & Patel, B. K. (2026). *Research methodology: Tools and techniques*. BR Publications.

digital marketing activities.⁷ The legal position of influencers in civil law relationships is active and cannot be separated from their responsibility for the impact of endorsed content. This position strengthens the argument that in the event of loss, consumers have grounds to seek civil liability against influencers.

The involvement of influencers in endorsement contracts with business actors creates external legal implications for consumers as the affected party. From a civil law perspective, if the endorsement contains false claims, the influencer can be held liable based on the principle of unlawful acts as stipulated in the Civil Code. Consumer protection law also provides that any individual associated with spreading detrimental information about products is liable to face civil legal repercussions. It is clear from this that an influencer's duties are not just ethical but have legal elements as well. That is why it is important to establish the civil liability of an influencer.

Violation of Consumer Rights to Accurate and Honest Information

Consumers' right to get true, understandable, and non-misleading information is one of the core principles of consumer protection in Indonesia. As far as the methods of endorsement are concerned, the information offered by the influencer to the customers transforms into an essential element that influences the development of trust towards the purchasing process of the product. The distortion of information or making statements without reliable factual evidence can become the basis for consumer rights abuse. This statement is also supported by other scholars who note that misleading information that is distributed during digital promotion activities is regarded as a breach of the consumer protection laws. Misrepresentation of the facts through endorsements can become the basis for civil disputes between parties since it brings damage to consumers. Overclaims used in promotion, especially when it goes about cosmetic and health products, exemplify how endorsements can damage consumers both materially and immaterially. From a legal perspective, influencers, spreading claims without verifying whether they are true, can be viewed as participants in unlawful actions. Besides that, endorsed material can become grounds for legal sanctions due to violating good faith in transactions. This is why violations of consumers' rights to accurate information are one of the main bases for establishing the civil liability of influencers.⁸

Basis for Lawsuit Against Influencer for Unlawful Acts

In civil law, lawsuits against influencers are generally based on the concept of unlawful acts, which requires the elements of action, fault, damage, and causality. When influencers actively promote products that are later proven to be harmful to consumers, the elements of action and damage can be fulfilled if there are tangible negative impacts. Influencers could be made liable for deception and falsehood in their marketing activities. Additionally, an influencer would be made liable for the promotion of claims that have not been proven true despite being aware of the same. Through the fulfillment of the elements of fault and the causal relationship between the endorsed content and consumer losses, civil lawsuits become relevant.

Table 1: Elements of Unlawful Acts in Influencer Endorsements

Element of Unlawful Act	Explanation	Application in Influencer Endorsement	Fulfillment Indicator
Act	Any action conducted by a legal subject	Influencer promotes a product through social media endorsement	Exists if content is published and consumed by the public

⁷ Souza-Leão, A. L. M. D., Moura, B. M., & Nunes, W. K. D. S. (2022). All in one: Digital influencers as market agents of popular culture. *Revista Brasileira de Gestão de Negócios*, 24(2), 247-274.

⁸ Friedman, N. (2024). Selling Beauty: Ethical Implications of Skincare and Cosmetic Advertising.

Fault (Intent/Negligence)	The presence of intention or lack of due care	Influencer exaggerates claims or fails to verify product safety and legality	Fulfilled if there is misleading information or lack of verification
Damage	Loss suffered by consumers, either material or immaterial	Consumers experience financial loss, health issues, or psychological harm	Proven through actual negative impact on consumers
Causality	A causal relationship between the act and the damage	Consumers purchase and use the product based on influencer recommendation	Fulfilled if losses would not occur without the endorsement

Source: author's work.

The civil liability of influencers can also be analyzed through the approach of legal protection for parties who suffer losses in digital promotional relationships. Legal protection in promotional agreements indicates that influencers have an obligation to act with caution and not make misleading claims. Furthermore, legal certainty in endorsement activities requires accountability for all information published to the public. The concept of unlawful acts is the main basis for holding influencers civilly liable for endorsements that harm consumers.

Transparency and Credibility as Parameters of Responsibility

The civil liability of influencers is also related to the level of transparency and credibility in delivering promotions. The credibility of information sources has a significant influence on consumer purchasing decisions, so abuse of trust can increase the potential for losses. If influencers do not clearly disclose the commercial nature of an endorsement, consumers may be misled by the impression of objectivity that is created. A lack of transparency can be an indicator of negligence or even intent to create a false perception. Therefore, transparency in endorsements is an important part of the standard of care that influencers must meet.⁹ The need to be open and professional relates not only to ensuring legal certainty in online advertising. It has been proven by research that influencers should know what the legal limitations on their activities are and how not to become involved in illegal advertising practices. The issue of consumer protection includes finding the necessary balance between the commercial interests of companies and consumer interests in receiving reliable information. Openness and credibility are not only questions of ethics; these factors are also key criteria when determining the liability of influencers.

Elements of Fault and Causality in Civil Liability of Influencers

Fault constitutes one of the significant elements in civil liability formulations under Article 1365 of the Civil Code. Fault refers to either intent or negligence in the dissemination of information among consumers. In this case, legal negligence would involve influencers making statements or claims which may not be well-researched or verified. On the other hand, overstating the benefits of a product without any scientific backing would constitute negligence in terms of digital marketing practices. Influencers continuing to endorse a product even when there are signs of potential

⁹ Nurzakiah, N., Haris, H., & Slamet, A. B. (2025, November). Criminal Liability of Influencers for Misleading Endorsements: Strengthening Consumer Protection in the Digital Age in Indonesia. In *6th International Conference on Law Reform (INCLAR 2025)* (pp. 239-250). Atlantis Press.

risk in such products further reinforces this element. From what we have discussed so far, it is evident that proof of fault seems to be a vital aspect when considering the civil liabilities of influencers. The next element involves the presence of causation between the promotion and the losses incurred by the consumers. Here, endorsements would become the key factor affecting consumer purchasing behavior. The dissemination of misleading information through endorsed content can also be a direct trigger for losses. If it can be proven that the losses would not have occurred without the influencer's promotion, then the element of causality is fulfilled. This strengthens the basis for a lawsuit against the influencer for unlawful acts.

Consumer Losses: Material and Immaterial

Table 2: Types of Consumer Losses Due to Misleading Endorsements

Type of Loss	Description	Example	Legal Claim Possibility
Material Loss	Financial or economic losses that can be quantified	Purchasing unsafe or counterfeit products, medical expenses	Yes
Immaterial Loss	Non-economic losses affecting psychological or emotional condition	Anxiety, disappointment, loss of trust in digital transactions	Yes
Health Risk	Physical harm resulting from product usage	Skin damage from illegal cosmetics or unsafe products	Yes
Opportunity Loss	Loss of alternative benefits due to misleading information	Choosing a harmful product instead of a safer alternative	Yes

Source: author's work.

Damages are another component that needs to be proven in the case of civil liability. For example, material damage can refer to medical costs due to the consumption of hazardous products, monetary losses due to the buying of fake products, or further expenses due to the consequences of using the products. Studies have shown that the advertisement of the counterfeit products can be harmful to consumers' welfare. Furthermore, the advertising of illegal goods, such as cosmetic products lacking a permit of distribution, can endanger the well-being of the consumers. Kerugian tersebut dapat dianggap sebagai kerugian yang riil dan bisa diperhitungkan secara ekonomi. Thus, the compensation for the material damage in civil law proceedings can be requested in practical terms. Moreover, consumers can suffer immaterial damages due to mental problems, fear, and mistrust of any purchases online. The misleading endorsement of the advertised content can significantly affect the rights of the consumers and weaken their feeling of safety during the process. The right to obtain truthful information about any products belongs to the consumer rights protected by the laws. Consequently, the violation of these rights will lead not only to economic but also to psychological and social losses.

Principles of Good Faith and Duty of Care

The principle of good faith is a fundamental principle in contract law and tort law. The influencers are bound to behave in an honest and open manner and not to hide any significant information regarding the products promoted. The protection that is legally provided within the promotional contract must be balanced. Legal clarity within the

digital promotion practices involves the need for influencers to appreciate the boundaries of their duties since they are people who possess a certain level of public influence. This is why the standard of care is an important parameter in assessing civil liability.¹⁰ The duty of care for influencers is higher because they have a significant influence on consumer decisions. The credibility of influencers has been proven to have a direct impact on the purchasing interest and trust of their audience. The greater the influence, the greater the responsibility. Influencers cannot claim that they are simply relaying information about products from companies, as people trust them. They must undertake the task of making sure that the products are not illegal or harmful to people's health. This is a legal obligation that they may incur liability in case they ignore it.

CONCLUSION AND RECOMMENDATION

Conclusion

The emergence of influencer marketing has brought about a situation where influencers are now considered legal actors that can be made liable in cases of harm caused by endorsements made by them. Unethical practices of endorsement, which resemble fraud, non-disclosure, and inaccurate information on products, qualify as legal issues if certain conditions, such as intent, harm, and causation, are satisfied. It would thus be prudent for the influencers to practice integrity and honesty while doing such things because these significantly influence consumer behavior. However, the legal requirements for the same are yet unclear.

Recommendation

For the resolution of such issues, there needs to be development of more detailed and specific regulation which will include responsibilities of influencers regarding such aspects as the problem of disclosure, accuracy of the information provided, and liability. The need for stronger efforts in enforcing law is also necessary to ensure sufficient consumer protection. It is crucial for the influencers to conduct themselves in a professional manner by fulfilling their obligations of due diligence and good faith in relation to endorsement of different goods or services.

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