

Bilivery Event: Influencer Marketing: Doing It Right!

Susan Griffin, Marketors, reports that over 150 members attended this joint event sponsored by the Marketors' Law & Marketing committee and the Stationers' Digital Media Group. Influencer Marketing has been around for many years. The market, where Brands use celebrities and well known people to influence purchaser behaviours, is forecast to reach \$15 billion by 2022. Chaired by Jeremy Stern the panel discussion opened with **Jason Freeman**, Legal Director of the Competition and Markets Authority (CMA), giving an overview of the CMA's guidance for Influencers.

- Say when you've been paid, given or loaned things
- Be clear about your relationship with a brand or business.
- Make sure you are transparent and state that the post is a promotion
- Don't be misleading
- Be honest about what you're promoting and make the disclosure upfront.

Liveryman Robert Bond, reminded us that companies must stand behind claims made through advertising. He highlighted that legal risks arise for the Influencer as well as the brand. What often starts as a hobby for the influencer goes on to become a business. In these circumstances, the Influencer takes on an increasing share of the risks, and both parties need to be clear about their roles and accountabilities.

Emily Leary, started her business @amummytoo in 2011 as a blog. The response from brands was immediate and spontaneous. By 2013 she was generating 60,000 users per month. Over time, Emily's business has evolved from a focus on parents with young children, to a food and lifestyle business for busy parents. Emily's criteria for success are that her content must always be useful, adding context to the product and placing it within her own story. This might come from a family visit to a local nature reserve where she adds information such as opening and closing times, or a product which is included in a favourite recipe. She also highlighted the importance of generating her own content, and of not relying on any one single platform.

Emily is transparent and up front about her "paid for" ads, avoiding the use of hashtags to hide that the content is an ad.

Young Stationer, **Jessica Zbinden Webster**, highlighted the role of social media in recent elections, from 2015 (the first digital General Election), through 2017 where Labour held the upper hand, to 2019 which saw the Conservatives increase social media postings to 20 a day (2017: 3 per day) using the media to focus on having fun.

In 2020 all MPs have adopted a more informal mode of social media and it is used to help parliamentarians develop a genuine connection. Voters react positively to seeing MPs on the weekend, including their cat videos, but enthusiasm was tempered by the message that female MPs suffer extensive abuse from messages on platforms, to the extent that many hand management to others.

Jessica characterised The House of Commons as an "extravagant hot desk" with individual MPs effectively running their own businesses; looking forward, it will be interesting to see whether tech savvy politicians will emerge who will attempt to influence, Gen Z as they become engaged with the ballot box.

A lively discussion covered the ability to see through influencers (many people still don't realise the posts are paid for, but reputation for influencers is critical), and at what point the role of influencer crosses the line for politicians who may also be receiving donations from companies.

The use of AI through "bots" to divert and issue posts was mentioned as being an area being looked at by regulators.

The messages were clear, this is an evolving channel, but one which needs to be underpinned by transparency and protection of individuals. So whether practitioner or regulator; know the rules and play by the rules.

References

CMA guide for influencers: <https://www.gov.uk/government/publications/social-media-endorsements-guide-for-influencers>

CMA/ASA joint guidance: <https://www.asa.org.uk/news/new-guidance-launched-for-social-influencers.html>

CMA blog: <https://competitionandmarkets.blog.gov.uk/2019/04/30/influencer-marketing-what-you-need-to-know>

From Robert Bond:

Brand Risks	Influencer Risks
<ul style="list-style-type: none"> - is the influencer a good match for the brand - Does the influencer have any skeletons in the cupboard which may surface later to the detriment of the brand - Where, geographically, are they (which law applies) - Have they been, involved with a competitor - Is the relationship exclusive or non-exclusive - How does the brand, measure success - Are there data protection issues for example, use of analytics - Is the influencer an individual or a business. - Who has insurance cover if it goes wrong - Who owns the intellectual property of that which the influencer may have created in the context of the brand 	<ul style="list-style-type: none"> - Is the brand suitable for you - What does the contract look like? (don't be afraid to negotiate) - Who creates the content. What frequency of posts? (Use a statement of work to clarify) - Is it exclusive or non-exclusive - Consider marketing law and consumer law - Health products, may require consideration of medical rules - If you collect or store the data of your followers, have you registered with the Information Commissioner's Office?