

## **Ensuring Fairness in the Digital Marketplace: a Communicative and Cognitive Analysis of Deceitful Influencer Marketing and Gaps in Regulatory Benchmarks**

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Advertising is, essentially, an attempt of manipulation, trying to modify consumers' beliefs and behavior. Regulatory frameworks operate in the tension between accepting the nature of this vector and protecting citizens from unfair practices. However, determining what constitutes "unfair" is often a complex and contested issue.

As online commercial speech evolves rapidly, particularly through influencer marketing and digital platforms, it has raised significant concerns regarding traditional regulatory frameworks challenges for ensuring fairness and transparency. Misleading advertisements often exploit recipients' cognitive biases, disproportionately affecting vulnerable consumers with limited digital literacy. Traditional regulatory frameworks struggle to address the complexity of modern online advertising, and especially when involving influencers, commercial content is often blended with personal endorsements, making it difficult for consumers to discern authentic messages from paid promotions. However, fairness online can help reduce negative externalities caused by the asymmetry of information, empowering consumers to make more informed decisions. The challenge lies in ensuring that advertisements, notably those targeting sensitive commercial areas, like charitable or financial products (see "finfluencers"), adhere to ethical standards by providing clear disclosures about the commercial intent behind endorsements. While current laws addressing hidden and misleading advertising offer some protection, enforcement remains inconsistent in this rapidly evolving digital environment. This paper analyzes recent cases of deceptive influencer marketing through a pragma-cognitive lens, revealing how such advertising manipulates consumers' heuristics. It argues for a revision of regulatory models to include stricter transparency requirements, enhanced consumer education, and more robust enforcement mechanisms. By promoting fairness in online advertising, legal frameworks can protect consumer rights and foster trust in the fast-growing digital marketplace, aligning with the broader goals of European Union's consumer protection.