

# Influencer Ad Disclosure on Social Media

A report into Influencers' rate of compliance of ad disclosure on Instagram



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## Executive summary

With steadily rising complaints to the ASA about whether influencer ads are appropriately disclosed on social media, we proactively monitored a select group of influencers with whom we have previously been in contact about how to disclose content as advertising. We did this to establish their rate of compliance with rules which require ads to be obviously identifiable as such.

The three week monitoring period focused on content on Instagram because complaints to the ASA about Influencer ad disclosure tended to be on this particular platform. The rules on ad disclosure apply to all platforms and media where influencers choose to engage in advertising.

Our analysis of over 24,000 individual ‘Stories’, posts, IGTV and reels across 122 UK-based influencers revealed a disappointing overall rate of compliance with the rules on making it sufficiently clear when they were being paid to promote a product or service.

We have therefore written to all of the Influencers we monitored and the main brands who had partnered with one or more of them. Brands are held equally responsible for failing to adequately disclose advertising content.

We have also requested that the influencers provide an assurance of future compliance with the rules and will undertake monitoring to ensure that they comply – or face sanctions.

### What did we find?

- **Inconsistent disclosure across Stories** - when a piece of ad content spans a number of consecutive Stories, unless it’s absolutely clear that this is part of the same posting, each Story must be disclosed as an ad.
- **Inconsistent disclosure across Stories, IGTV, Reels, posts** – we noted instances where a post would be accurately disclosed as an ad but a corresponding Story, was not.
- **Visibility of ad labels** – where Stories were labelled as ads, we noted labels were often in a small font, obscured by the platform architecture or otherwise difficult to spot; mainly due to being in a very similar colour to the background of the Story where it was placed.
- **Affiliate content is still an ad** – we noted the use of #affiliate or #aff with no additional upfront disclosure; those labels are not likely to be enough on their own to disclose to users the advertising nature of the content.
- **Own-brand ads** – Influencers should not rely on bios or past posts to make it clear to consumers that they are connected to a product.

## Introduction

Both the CAP Code and the law require marketers to leave consumers in no doubt about when they are engaging with advertising, and this includes advertising on social media. This is not a new rule specific to social media, it is a rule that has been applied across all non-broadcast media via the CAP Code and the equivalent rules in the BCAP Code for broadcast media, for many years.

The emergence of new platforms online has enabled new methods of incorporating marketing communications within and around editorial or other non-advertising content. However, our own [Ad Labelling research](#) and [Ofcom research](#) shows the difficulty that consumers have in distinguishing certain types of online ads from surrounding content. Clear and prominent disclosure is therefore essential; in short, it must be obvious to consumers before they read, 'like' or otherwise interact with content if it is a marketing communication.

The ASA and CAP have invested significant resource and effort into helping the influencer marketing industry understand their responsibilities under the ad rules. On top of the numerous rulings the ASA has published on ad disclosure on social media, we have hosted an 'Influencer Responsibility' event and produced numerous pieces of [advice online](#), including the '[Influencers guide](#) to making clear that ads are ads' and a '[cheat sheet](#)', specifically designed to help Love Islanders navigate the rules.

In spite of the work already undertaken to help influencers stick to the rules, complaints to the ASA on this subject remain high: 2020 saw a 55% increase on 2019 in complaints received about influencers, from 1,979 to 3,144 individual complaints. 61% of those complaints in 2020 were about ad disclosure on Instagram.

With influencer marketing continuing to grow [as the popularity of social media apps increases due to consumers spending more time online](#), it is likely that the ASA will receive more complaints about this type of advertising. Our [2019 Annual Report](#) demonstrated that complaints about influencer posts made up more than one quarter of all complaints about online media, with online media complaints making up just short of half of all the complaints made to the ASA in 2019.

Influencer advertising is not new and whilst we're heartened to see large elements of the industry maturing and disclosing ad content transparently, we continue to see far too many incidences of non-disclosure, which threaten to bring this marketing discipline into disrepute and breed distrust in consumers. Through easy to use CAP guidance for influencers on how to comply with the rules, there is simply no excuse for influencers not to make clear to consumers when content has been paid-for by a brand.

Complaints about **INFLUENCER POSTS** made up more than **¼ OF ALL ONLINE COMPLAINTS**



## The Code Rules

The CAP Code applies in full to ads in all non-broadcast media, including digital platforms, such as Instagram, Facebook, YouTube, Snapchat, Twitter and TikTok. Many of these Code rules are underpinned by legislation, including the Consumer Protection from Unfair Trading Regulations 2008 (CPRs). If an influencer fails to sufficiently disclose that a post is in fact marketing, then not only are they breaking the CAP Code, they – and the brand they're working with – may well be breaking the law.

The relevant ad disclosure rules of the Code state:

### 2.1

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Marketing communications must be obviously identifiable as such.

### 2.3

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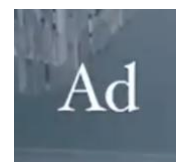
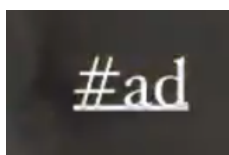
Marketing communications must not falsely claim or imply that the marketer is acting as a consumer or for purposes outside its trade, business, craft or profession; marketing communications must make clear their commercial intent, if that is not obvious from the context.

### 2.4

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Marketers and publishers must make clear that advertorials are marketing communications; for example, by heading them "advertisement feature".

We consider that, in most cases, the use of #ad (or similar) is the clearest way of communicating the commercial nature of advertising content, though using a platform's own disclosure tools, such as Instagram's Paid Partnership tool, can also help to distinguish advertising from other content.



## Monitoring

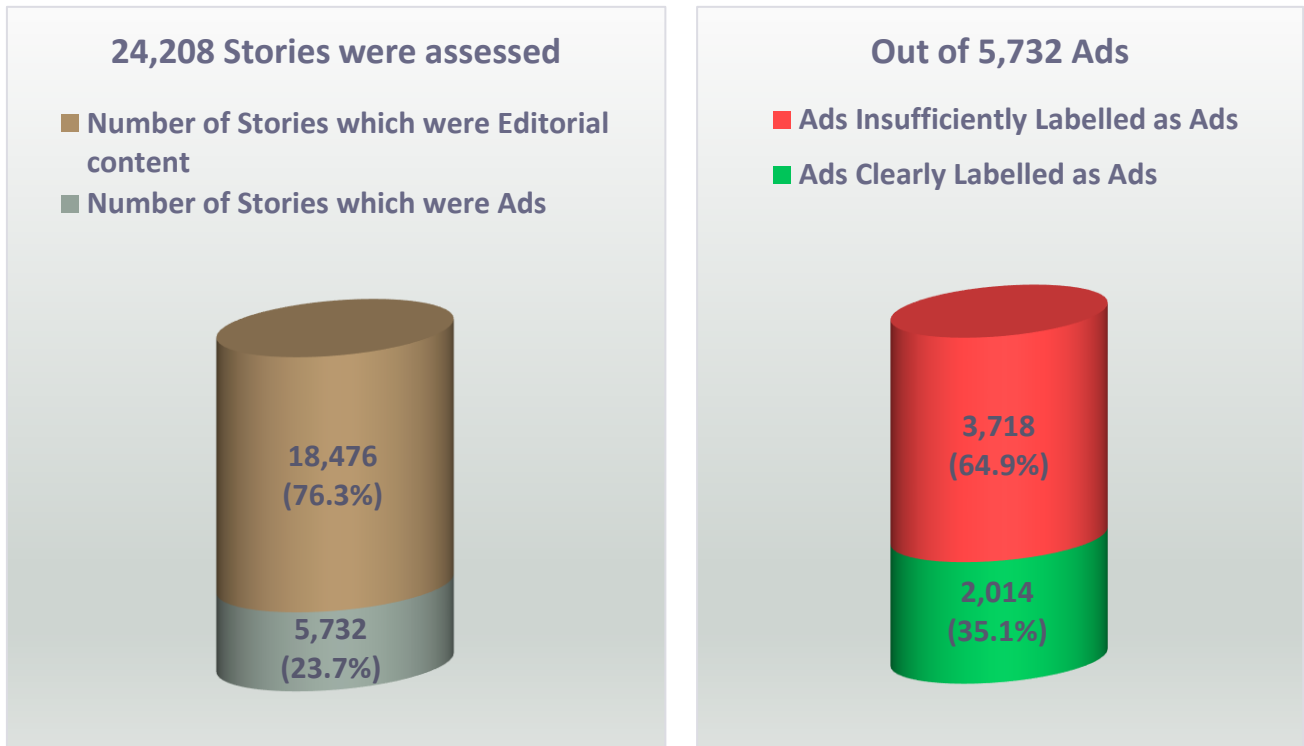
In September 2020, CAP undertook a three week monitoring exercise to review the Instagram accounts of 122 UK-based influencers to assess whether advertising content was being properly disclosed. The focus was on Instagram Stories because complaints made to the ASA were predominantly about this platform and this particular platform feature, but we did also consider posts, reels and IGTV. We also understood that ad spend on Instagram Stories has also been increasing significantly<sup>1</sup>.

Monitored content was considered very likely to be advertising when it included a “push” to consumers towards a brand. This might include explicit reference to a discount code or a “swipe up” message, for example. Or, where the content was otherwise clearly linked to a specific product or service via traditional advertising references to price, benefits of product/service (with no corresponding negatives), highlighting of a brand, etc. Years of experience regulating complaints about influencer content have helped us to identify when the content is very likely to amount to undisclosed advertising.

Influencers were primarily chosen on the basis of having been previously contacted about non-disclosure of advertising by the ASA, either in response to a complaint or via our self-initiated, proactive engagements with them on the matter.

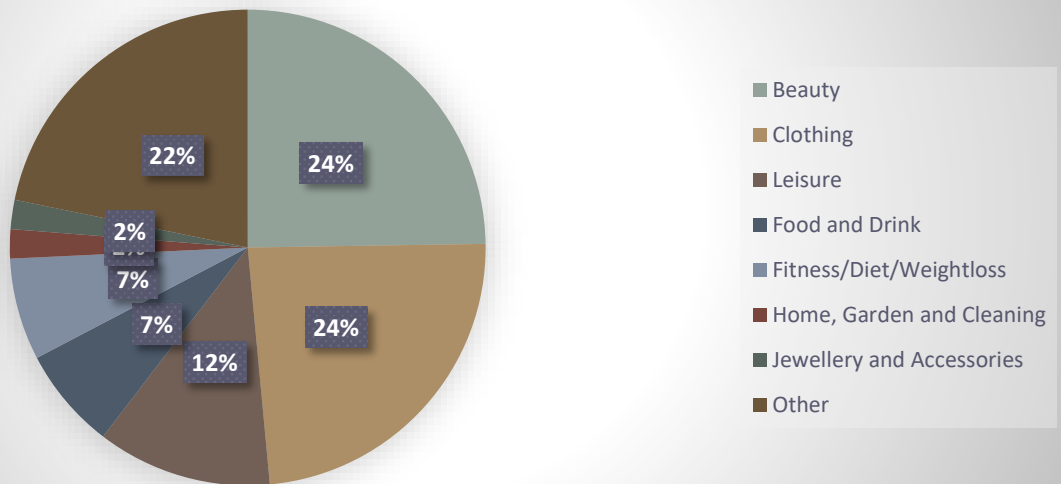
As part of that work, we identified a significant number of Stories that were likely to be ads that had not been disclosed as such.

We assessed over 24,000 Stories and compliance rates were far below what we would expect. We categorised nearly one in four Stories as marketing and considered that only 35% of them were clearly labelled and obviously identifiable as advertising.



<sup>1</sup> <https://www.marketingdive.com/news/instagram-stories-see-70-surge-in-ad-spend/568854/#:~:text=Ad%20spend%20on%20Instagram%20Stories,ad%20spending%20on%20Facebook%20Stories.>

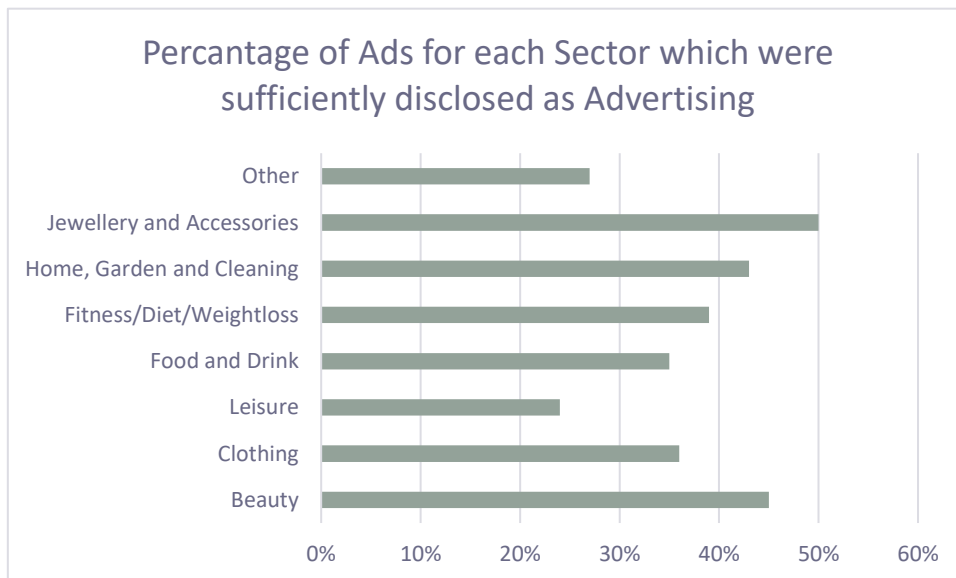
## Ads by Sector



Ads were largely found to fall into three sectors: Beauty, Clothing and Leisure. This is perhaps unsurprising to those who interact with Instagram on a daily basis and see posts, in their feeds, promoting make-up, fast-fashion, luxury brands and various trips to hotels, spas, and theme parks.

However, in terms of following the rules, no sector stood out as having an acceptable rate of compliance when it came to labelling ads. This suggests that neither influencers nor the brands are taking enough care to ensure consumers know when influencer marketing is occurring.

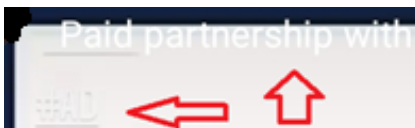
### Percentage of Ads for each Sector which were sufficiently disclosed as Advertising



## Key recommendations for Influencers and Brands

Our analysis noted some trends behind the low rates of compliance:

- **Inconsistent disclosure across Stories** - when a piece of ad content spans a number of consecutive Stories, unless it's absolutely clear that this is part of the same posting, each Story must be disclosed as an ad. It's not enough to label only the first Story, for example, as it might not be seen and subsequent, unlabelled Stories may not be obviously recognisable as ads
- **Inconsistent disclosure across Stories, IGTV, Reels and posts** – we noted instances where a post would be accurately disclosed as an ad but a corresponding Story, was not. Moreover, if an influencer creates a Story to highlight a “new post” to their feed, and the new post is an ad, the Story must make that clear.
- **Visibility of ad labels** – where Stories were labelled as ads, we noted labels were often in a small font, obscured by the platform architecture or otherwise difficult to spot; mainly due to being in a very similar colour to the background of the Story where it was placed. The label must be present and be easy to spot, on desktop, mobile or other devices. In posts, we noted the #ad label frequently appeared at the end of a block of text, sometimes below the fold; ad disclosure should essentially be the first thing the consumer sees.



- Here, the influencer has used both the platform's own disclosure tool and #AD, but neither are sufficiently clear for consumers to see.

- **Affiliate content is still an ad** – we noted the use of #affiliate or #aff with no additional upfront disclosure; those labels are not enough on their own to disclose to users the advertising nature of the content.<sup>2</sup> Influencers should label affiliate marketing in the same way as other advertising content; we recommend using #ad. This includes when an influencer promotes a discount code.
- **Own-brand ads** – Influencers should not rely on bios or past posts to make it clear to consumers that they are connected to a product. If they state clearly in their Story: “Here is my book”, “Download my app”, “Today we have launched my collection”, it is likely to be clear that they are connected to their product, which they are marketing. But, where their content does not make it clear, then the ad must be labelled in a sufficiently prominent manner.

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<sup>2</sup> <https://www.asa.org.uk/rulings/asos-com-ltd-a19-1025856-asos-com-ltd.html>;  
<https://www.asa.org.uk/rulings/matalan-retail-ltd-A19-1020138.html>



## Further Action

We have written to all the influencers we monitored, as well as a number of brands who featured in undisclosed ads. We have shared the compliance themes, referenced in this report, with them and put them on notice that we will conduct future monitoring spot checks. If those spot checks reveal further incidences of non-compliance, we will take enforcement action. Our sanctions include a dedicated non-compliant page on our website and targeted paid search ads on platforms.

The Competition and Markets Authority (CMA) has been conducting [its own work](#) in this area. Facebook (owner of Instagram) provided the CMA with undertakings in October 2020 that it will do more to prevent “hidden advertising” being posted on its Instagram platform. We expect the combined efforts of all organisations to improve compliance within the influencer landscape.

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