

# Towards Ethical Influencer Marketing: International Regulation and Consumer Protection

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## ABSTRACT

**Introduction:** This study analyzes the rise of influencer marketing as a key tool in digital communication and its impact on consumer perception and behavior, with a particular focus on Spain. This practice has raised ethical and legal concerns, such as covert advertising, which has led to the development of new regulations to ensure transparency and protect minors. **Methodology:** A descriptive and comparative study was carried out based on a literature and documentary review on the regulation of influencers in eight countries: Spain, France, Germany, Italy, the United Kingdom, Mexico, Argentina, and Peru. The selection was based on economic, geographical, and linguistic criteria. **Results:** The main findings show that Spain has developed a mixed regulatory framework, combining self-regulation with mandatory legislation. Other European countries, such as France, are notable for their extraterritorial legislation, whereas Germany and Italy apply sectoral regulations. In Latin America, Mexico and Peru have published official guidelines, although Argentina lacks specific legislation. **Discussion:** Given the above, there is a clear disparity in regulations between countries, which limits the effectiveness of oversight in a global and cross-border activity. **Conclusions:** In conclusion, although significant regulatory progress has been made, there is a need for a more uniform international framework that strengthens consumer protection, promotes advertising transparency, and addresses the challenges of the globalized digital environment.

**Keywords:** influencer marketing, advertising regulation, transparency, consumer protection, hidden advertising, digital ethics.

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## **1. INTRODUCTION**

Influencer marketing has experienced exponential growth in the last decade, becoming an essential tool within the communication strategies of many companies. In 2020, investment in influencer marketing reached \$10 billion, demonstrating its relevance for many businesses, especially in B2C sectors such as fashion, beauty, travel, and food (Cheung et al., 2022). In Spain, this phenomenon has captured the attention of both brands and consumers, generating a significant impact on perception and purchasing behavior (Segovia-Villarreal & Rosa-Díaz, 2022). However, this practice has also raised concerns about transparency and ethics in advertising (Cabrera, 2021). Specifically, covert advertising has become increasingly common in marketing strategies (De Veirman & Hudders, 2019), and its hidden and undeclared nature poses significant ethical and regulatory challenges, especially regarding consumer protection (Labio, 2006). To regulate this activity, the Spanish government has approved regulations focusing on the protection of minors and the dissemination of advertising content in line with European standards. In this sense, the study of these new regulations and their evolution is motivated by their interest and relevance in the current context, given that influencer marketing is a contemporary practice whose adaptation to new regulations requires meticulous and constant attention. The recent implementation of these regulations by the Spanish government highlights the importance of ensuring transparency and ethics in digital advertising, which is fundamental to maintaining consumer trust and protecting the most vulnerable groups, such as minors. The interest of this research also lies in its timeliness and relevance, since it addresses a regulation that came into force in 2024 and has a direct impact on a rapidly growing sector.

## **2. OBJECTIVES**

The general objective of this work is to study the role of influencers as advertising agents and their ability to influence consumers, considering the legal implications in different legal contexts. To achieve this, the following specific objectives are proposed:

- To analyze the regulation of influencers in Spain compared to that of other countries to determine the significant differences in their regulations.
- To explore how these differences might relate to consumer safety and the transparency of digital marketing practices in the selected countries.

## **3. METHODOLOGY**

To achieve the stated objectives, a descriptive and comparative study was conducted based on a systematic literature and documentary review of influencer regulation in various countries. The selection of cases (Spain, France, Germany, Italy, the United Kingdom, Mexico, Argentina, and Peru) is based on a combination of economic, geographic, and linguistic factors. On the one hand, Spain, France, Germany, Italy, and the United Kingdom represent established European economies where digital marketing and influencer regulation have gained prominence in recent years, as evidenced by the proliferation of software regulations. Law and Sectoral Self-regulation mechanisms (Wiszniewska, 2025). On the other hand, Mexico, Argentina,

and Peru were included due to their weight in the Spanish-speaking world and because they are emerging markets where digital regulations lag behind the challenges of new technologies (Rodríguez Monzón & Zavaleta Camus, 2025). This economic and cultural diversity allows for a more complete view of how regulatory frameworks are implemented in different contexts.

The timeframe considered was the period 2020-2025, justified by the significant regulatory reforms that took place during those years related to the digitalization of marketing, consumer protection, and the introduction of new laws specifically for influencers. The bibliographic and documentary review included sources in Spanish and English, consulted in indexed academic databases (Scopus, Web of Science, Dialnet), sectoral literature, and official documents from state gazettes and bulletins, regulatory bodies, and self-regulatory entities.

The inclusion criteria focused on legal texts, official guidelines, and academic studies that directly addressed the regulation of influencer marketing, while journalistic sources lacking institutional or academic backing were excluded. To structure the comparison, a framework of predefined categories was established: (1) transparency and labeling of commercial communications; (2) protection of minors; (3) registration and thresholds for “high-profile users/ influencers”; (4) scope and limits of promotion; (5) monitoring mechanisms and sanctions; (6) territorial scope; and (7) self-regulation and co-regulation.

The information was organized and coded using comparative matrices created in Excel, which allowed for the systematization of regulatory evidence and the identification of similarities, differences, and legal gaps among the countries. The coding process combined open and axial techniques to ensure a consistent thematic analysis. Furthermore, a triangulation procedure of sources (legal, academic, and sectoral) was applied to strengthen the validity of the results and ensure the traceability of the study. This methodological strategy guarantees that the resulting interpretations are replicable and consistent with the documented regulatory evidence in each national context.

## **4. RESULTS AND DISCUSSION**

### **4.1. Regulation of Marketing Influencers in Spain**

The rise of influencers, a result of the democratization of content creation on social media, has transformed digital communication by allowing any user to be both a producer and consumer of content (Hiranandani & Wadhwani, 2023). This shift is related to the concept of the “prosumer,” a figure who integrates both roles and has played a crucial part in redefining digital dynamics, serving as a direct antecedent of influencers in the contemporary environment (Flisfeder, 2015). In this sense, the content generated by these users on social media has a direct impact on the consumer trust, where credibility and the ability to connect authentically are key. Their followers are key factors that make them effective intermediaries between brands and end users (Lou & Yuan, 2019). Specifically, trust in influencers is strongly linked to the perception

of its attractiveness, similarity to its followers, and informational value of content they generate, which in turn influences consumers' purchase intentions (Lou & Yuan, 2019). In the field of marketing and communication, influencers are seen as a powerful tool for co-creating brand value. These creators carefully craft their content to balance their values with the need for monetization, which strengthens the relationship of trust with their audiences and allows their recommendations to have a significant impact on purchasing decisions (Jacobson & Harrison, 2021). Studies such as Hudders and Lou's (2022) indicate that followers perceive sponsored posts as genuine recommendations, increasing the message's effectiveness and improving the public's attitude toward the promoted brand. Furthermore, as social media platforms grow, influencers are able to reach larger audiences and promote products more effectively, making this strategy an integral part of digital marketing (Rosengren & Campbell, 2021). Advertisers, also aware of this impact, adjust their campaigns to take advantage of the brand awareness that influencers have managed to build on platforms such as Instagram or TikTok (Brooks et al., 2021).

According to the Influencer Marketing Hub (2024), the global value of the industry is estimated to reach \$24 billion by the end of 2024, tripling its size since 2019. Furthermore, spending on influencer marketing continues to rise, especially on platforms like Instagram, TikTok, and YouTube, with an estimated growth of 16% in 2024 in the United States alone (Influencer Marketing Hub, 2024). This trajectory shows that the advertising business is evolving from a communicative discourse toward transmedia communication, where influencers not only amplify commercial messages but also become brand ambassadors, requiring new forms of regulation and control (Marzal & Casero, 2017). It is precisely consumers themselves who are increasingly critical of marketing strategies they perceive as inauthentic or manipulative, and they value more those users who are transparent about paid collaborations and maintain a genuine relationship with their audience (Audrezet et al., 2020). This trend stems from the fact that covert advertising through micro-celebrities has been a widely used strategy in Spain, where advertising mentions are indistinguishable from personal content, raising serious transparency issues (Caro, 2016), particularly among younger audiences, over whom these celebrities exert considerable social influence. The misuse of these platforms can amplify not only covert advertising and unfair competition but also misinformation, reinforcing the need to develop regulatory and moderation mechanisms on social media to prevent the spread of harmful content (Crilley & Gillespie, 2019).

It is evident that the advertising business in the digital environment has undergone a substantial change, with influencers playing an increasingly relevant role as intermediaries between brands and their consumers (González & Fanjul, 2019). This new relationship necessitates stricter regulation to ensure that commercial promotions are properly labeled as such (Castelló & del Pino, 2015). In Spain, the legal environment is evolving to address the specific challenges posed by this new form of advertising (Tato, 2019). In this regard, regulatory developments have progressed from an initial voluntary Code of Conduct, promoted in 2020 by the Spanish Advertisers Association

(AEA, in Spanish) and Autocontrol<sup>2</sup>, towards the adoption of hard law such as the General Law on Audiovisual Communication (Law 13/2022) and the Regulation on Users of Special Relevance (Royal Decree 444/2024). As a consequence of these mandatory provisions, the soft law framework will be updated and expanded in 2025 law with the implementation of the Code of Conduct for advertising through influencers, developed by the AEA, Autocontrol and IAB Spain, which reinforces transparency and facilitates compliance with the new legal requirements in the digital ecosystem.

#### **4.1.1. Autocontrol and the Code of Conduct for Advertising Through Influencers (2025)**

Autocontrol is an association created and financially supported by the advertising industry, comprising around 600 direct and 4,000 indirect members who are linked to approximately 70% of advertising investment in Spain. These members include advertisers, agencies, media outlets, and industry associations. Through self-regulation, a space of trust is created for consumers within the sector, while simultaneously offering valuable and reliable support to the authorities, complementing their work in regulating and controlling advertising, and in many cases, making their direct intervention unnecessary (Fernández, 2015).

Autocontrol's well-known motto is to guarantee truthful, legal, honest, and fair advertising, for the benefit of the industry, society, and the authorities. The advertising self-regulation system in Spain is considered one of the most advanced in the world, serving as an example for many other countries (Perelló & Muela, 2016). However, it is important to emphasize that advertising self-regulation is voluntary, which requires Autocontrol to respect the work of its members and clients, striving to be efficient, informative, and constantly updated. In this way, the various audiences it serves – the advertising industry, the authorities, consumers, and the public – can better recognize its value and even consider it indispensable.

In 2020, the Code of Conduct on the Use of Influencers in Advertising (Autocontrol, 2020) was created in response to the growing interest of the Spanish public administration in regulating this emerging phenomenon. Faced with this situation, the Spanish Advertisers Association (AEA, in Spanish) and the Association for Self-Regulation of Commercial Communication (Autocontrol) joined forces to develop this Code of Conduct.

The Code was presented within the framework of the “Protocol for the promotion of self-regulation in digital media” signed by AEA and Autocontrol with the Ministry of Economic Affairs and Digital Transformation and the Ministry of Consumer Affairs, coming into force on January 1, 2021. This established ethical standards that had to be met by all companies affiliated with AEA and Autocontrol, as well as by influencers

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<sup>2</sup> A non-profit advertising self-regulatory organization (SRO) in Spain.

who adhered to the code.

However, recent regulatory changes have prompted an update, leading to the new “Code of Conduct for Advertising Through Influencers” (Autocontrol, 2025), which comes into effect on October 1, 2025. This new Code, promoted by the Spanish Advertisers Association (AEA, in Spanish), Autocontrol, and IAB Spain, establishes a self-regulatory framework designed to guarantee transparency and ethics in commercial communications carried out through influencers. It responds both to the exponential growth of investment in influencer marketing and to the need to adapt to European and national regulatory changes.

The document establishes ethical and enforcement standards that are binding on advertisers, agencies, platforms, and influencers. Its core provisions revolve around the principle of advertising identification, requiring that sponsored content be clearly recognizable to consumers. To this end, the use of clear labels such as “publicidad” “advertisement” or “paid collaboration” is recommended, and ambiguous terms (#ad, #sponso, etc.) are discouraged. Furthermore, the Code regulates the nature of the compensation (payments, gifts, trips, services, affiliate links), the specific protection of minors, the use of artificial intelligence in commercial content, and respect for intellectual property rights.

Regarding compliance, the Code includes prior control mechanisms (voluntary consultations with Autocontrol through the Copy Advice service) and subsequent control (binding resolutions of the Advertising Jury, as well as periodic monitoring actions). Liability for infringements may fall on advertisers, agencies, or influencers, depending on the degree of involvement in the advertising campaign.

Finally, a Monitoring Committee was established, comprised of representatives from the AEA, Autocontrol, and IAB Spain, tasked with evaluating its implementation. Overall, the Code stands as a pioneering tool in Europe for promoting transparency, consumer trust, and consistency between legal regulations and self-regulation within the influencer marketing ecosystem.

#### **4.1.2. Applicable Regulations: General Law on Audiovisual Communication and the Regulations for Users of Special Relevance**

According to a study conducted by the digital strategy consulting firm 2btube (2024), the influencer phenomenon is growing rapidly. By 2024, there will be more than 13,600 users with over 100,000 followers on at least one social media platform who are able to make a living from it, representing a 13.3% increase from the previous year. This significant growth has made it necessary to establish mandatory regulations governing the activities of these content creators, particularly those who achieve greater prominence and, consequently, social influence.

In this regard, two fundamental regulations apply to them. First, the General Law on Audiovisual Communication (Law 13/2022), a legal text that includes the role of so-called “influencers,” individuals who exert social influence through social media, who

will have to begin complying with a series of mandatory measures (Legálitas, 2024). Second, a Regulation on Users of Special Relevance was approved in 2024, implementing Article 94 of the same Law 13/2022, with the aim of regulating their activity in two essential areas: the protection of minors and the dissemination of advertising content, in accordance with European regulations issued in recent years. This regulation defines these users of special relevance and regulates their activity, requiring them, among other things, to expressly identify advertising and age-appropriate content. In this way, compliance with the General Law on Audiovisual Communication<sup>3</sup> for this type of content is guaranteed, and the protection of consumers in general is reinforced (La Moncloa, 2024).

“Users of special relevance” is the term used in the Audiovisual Communication Law to designate influencers. Specifically, Article 94.2 establishes that users of special relevance are those who use video sharing services through a platform and simultaneously meet the following requirements:

- a) The service provided involves an economic activity through which its owner obtains significant income derived from its activity in video exchange services through a platform;*
- b) The user of special relevance is the editorial manager of the audiovisual content made available to the public on their service.*
- c) The service provided is intended for a significant part of the general public and may have a clear impact on it.*
- d) The function of the service is to inform, entertain or educate and the main objective of the service is the distribution of audiovisual content.*
- e) The service is offered through electronic communications networks and is established in Spain.*

It is precisely this last requirement that gives rise to this research, since the obligations will apply exclusively to users established within Spanish territory. As media outlets, they must assume the obligations corresponding to compliance with the general principles of Audiovisual Communication:

- Human dignity: Content that could violate human dignity, such as hate speech, discrimination, or incitement to violence, must be avoided. Content must respect the rights to honor, privacy, and image of others, and must guarantee the right to rectification when errors are made or rights are affected.
- Pluralism: In their communication, influencers should promote diversity and a plurality of voices, reflecting an inclusive cultural and social representation.

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<sup>3</sup>The regulation aims to align with Directive (EU) 2018/1808, which, although it does not explicitly mention influencers, grants Member States the authority to regulate this role, recognizing its growing importance in the dissemination of audiovisual and advertising content (PwC España, 2024).

This means not limiting themselves to a homogeneous approach, but integrating different perspectives, which contributes to the richness of public debate.

- Gender equality and the image of women: They are required to avoid reproducing gender stereotypes and sexist messages in their publications. Furthermore, they must promote equality and non-discriminatory representation between men and women, aligning themselves with equality regulations.
- People with disabilities: They have a responsibility to avoid content that perpetuates stereotypes about people with disabilities. They must promote an inclusive image, highlighting their rights and abilities, and showcasing their diversity.
- Official language of the State and official languages of the Autonomous Communities: They must contribute to the promotion of the official language of the State and the languages of the Autonomous Communities, as well as to cultural diversity. This could include the creation of content in different languages and the representation of diverse cultural expressions.
- Accuracy of information: Influencers are obligated to share truthful information and distinguish between facts and opinions. They must avoid spreading false information or disinformation, as its reach can significantly influence public perception.
- Media literacy: They play a key role in promoting the critical and responsible use of social media, especially among minors. This includes preventing the normalization of addictive behaviors and fostering critical thinking in the face of misinformation.
- Self-regulation: Influencer participation is encouraged to voluntary codes of conduct that regulate their activity, such as the one analyzed in section 4.1.1, guaranteeing an ethical and transparent framework. These codes must provide for proportionate sanctions in case of non-compliance and be subject to effective monitoring.
- Intellectual property: They must respect copyright, ensuring that all content they share complies with current intellectual property legislation.
- Codes of conduct for self-regulation and co-regulation: They must collaborate with authorities and self-regulatory bodies to ensure compliance with the rules. This involves making clear commitments in key areas such as child protection, gender equality, and combating disinformation.

Furthermore, special emphasis is placed on the protection of minors, since users of particular importance must assess the content to be published and/or distributed beforehand to provide users with sufficient and unambiguous information about the potentially harmful nature of audiovisual programs and content for the physical, mental, or moral development of minors. This can be achieved through the use of a content description system, audio warning, visual symbol, or any other technical means that describes the nature of the content (Legálitas, 2024). In this regard, the General Law on Audiovisual Communication provides a series of specific measures, which can be summarized as follows: separately categorizing content with pornographic or violent content; inclusion in the Self-Regulation Code; and finally, providing parental control mechanisms or digital encoding systems.

Adherence to all these principles contributes not only to ensuring legal responsibility in the digital sphere, but also to strengthening the credibility and trust of those actively participating in this ecosystem. In this context, the importance of promoting ethical values, diversity, and inclusion in a dynamic audiovisual environment is recognized. Furthermore, the Law emphasizes self-regulation and adherence to codes of conduct as fundamental tools for achieving a proper balance between creative freedom and social responsibility.

To ensure compliance with the established obligations, Article 39 of the General Law on Audiovisual Communication provides for a special registry: the State Registry of Audiovisual Communication Service Providers, Video Exchange Service Providers via Platform, and Audiovisual Communication Service Aggregation Providers, managed by the Ministry of Economic Affairs and Digital Transformation. Royal Decree 444/2024 mandated that high-profile users register in this registry, establishing a two-month deadline starting May 2, 2024. As of November 2024, the registry included 215 registered providers, 69 of whom were high-profile users.

For influencers, one of the main sources of income is commercial communications, which they are entitled to broadcast according to the regulations themselves. However, it is necessary to comply with the obligations set forth in Chapter IV of Title VI of the General Law on Audiovisual Communication. As in the entire sector, the General Advertising Law (Law 34/1988), among others, is also applicable, and all commercial communications must comply with the general principles of audiovisual communication, which have already been outlined. Specifically, communications that violate human dignity or promote any type of discrimination are prohibited, with particular attention to the use of images of women and the protection of minors. Specifically, it is forbidden to directly incite minors to buy or rent products or services by exploiting their inexperience or credulity, or to directly encourage them to persuade their parents or other individuals to purchase advertised goods or services (Legálitas, 2024).

Subliminal commercial communication is also expressly prohibited. Subliminal advertising refers to the technique of imperceptibly inserting messages or images into advertisements or visual content with the purpose of influencing the public's behavior

without their awareness (SocialPubli, 2023). The limitations and prohibitions regarding commercial communications for tobacco, alcoholic beverages, esotericism, parapsychology, lotteries, betting, and gambling apply, both in their absolute prohibitions (e.g., tobacco) and in their relative prohibitions, limiting their broadcast to certain time slots in the case of alcoholic beverages, betting, etc. Finally, it is also worth noting the validity of Circular 1/2022, of January 10, from the National Securities Market Commission, concerning advertising for crypto assets presented as investment opportunities, which also applies to influencers (Legálitas, 2024).

Regarding the consequences of non-compliance, a system of infractions and penalties is established, taking into account the severity of the violation. These infractions can be classified as very serious, serious, or minor. Each infraction carries a series of administrative penalties, ranging from the least serious, at €10,000, to the most substantial, at €600,000.

In the event of non-compliance with the aforementioned regulations, various complaint mechanisms may be used with the competent authorities, depending on the specific violation. Pursuant to Article 155 of the General Law on Audiovisual Communication, the National Commission on Markets and Competition (CNMC, in Spanish) is responsible for the supervision, control, and sanctioning of legal provisions; the Spanish Data Protection Agency (AEPD, in Spanish) handles data protection matters; and the National Securities Market Commission (CNMV, in Spanish) handles advertising related to crypto assets presented as investment opportunities. Therefore, one of the essential obligations for video-sharing service providers through platforms is to establish transparent and user-friendly mechanisms that allow users to notify the relevant provider of content that violates the established obligations; that is, the internal complaint procedures of each platform.

The proposed regulations have been criticized for excluding a significant portion of the influencer sector in Spain. Specifically, they would not apply to some of the country's leading opinion leaders (Cisnero Arias, 2023). This is because so-called Nano Influencers (those with between 1,000 and 10,000 followers) are the most popular category across all platforms. Despite having fewer followers, the *Influencer Marketing Benchmark Report 2025* shows that they constitute the largest segment with the highest interaction rates, and that, due to their better conversion and cost-efficiency, they are especially profitable for brands with limited budgets (Influencer Marketing Hub, 2025).

The rest of the market is divided between Micro influencers (between 10,000 and 50,000 followers), Mid Influencers (between 50,000 and 100,000 followers), Macro influencers (between 100,000 and 1 million followers), and Mega influencers (more than 1 million followers) fall into three categories, but only a portion of the latter two would be affected by this regulation. However, Spain has the largest presence of Macro and Mega influencers on TikTok and YouTube in Western Europe, making the impact of this regulation particularly relevant for these groups, who face a higher risk of non-compliance due to their broad reach and media scrutiny (PwC España, 2024).

## **4.2. Regulation of Influencer Marketing in the International Arena**

To begin with, the study will examine how neighboring European countries (France, Germany, Italy, and the United Kingdom) – some of which, like Spain, are members of the European Union – have approached the regulation of influencers, highlighting the similarities, differences, and challenges they face. Second, the same approach will be applied to key countries in Latin America (Peru, Mexico, and Argentina), where the analysis is particularly interesting due to the international scope of influencer advertising, combined with the cultural influence in the Latin world and the use of Spanish language (Suárez-Álvarez & Pastor-Rodríguez, 2023).

### **4.2.1. Regulation in Certain European Countries**

#### **4.2.1.1. Regulation in France**

France has adopted a proactive stance in regulating influencers. Law No. 2023-451 on the Regulation and Transparency of Commercial Influence (or *Loi sur la Régulation et la Transparence de l'Influence Commerciale*, in French) of 2023 defines influencers as individuals or legal entities who use their public profile to promote goods, services, or causes in exchange for compensation, clearly establishing who is subject to these rules. One of the key pillars of the law is transparency. Posts of an advertising nature must be explicitly identified with labels such as “advertisement” or “paid collaboration.” Influencers are also required to disclose whether images have been retouched or altered using filters or artificial intelligence, which adds an ethical dimension to the visual perception of the promoted content. These measures aim to combat practices that could distort consumer perception and ensure more honest communication.

The legislation also includes restrictions on the promotion of products and services considered sensitive or risky. The promotion of cosmetic surgery, nicotine products, medical devices, and cryptocurrencies is prohibited. This reflects an effort to regulate activities that could jeopardize the health or financial well-being of consumers, especially vulnerable groups such as young people. To ensure formalization and transparency in commercial relationships, the law also requires that agreements between influencers and brands be formalized through written contracts specifying the terms of the collaboration. Penalties for non-compliance are strict: fines of up to €300,000 and prison sentences of up to two years, reinforcing the coercive nature of the regulations. Another innovative feature of the law is its extraterritorial application, which requires influencers outside the EU, but with content aimed at the French public, to appoint a legal representative within the European Union and obtain liability insurance to operate.

The extraterritorial application of the Law on Regulation and Transparency in Commercial Influence in France (2023) represents a significant step forward in the regulation of digital marketing. This law requires influencers operating outside the European Union, but whose content is aimed at the French public, to comply with

certain specific legal obligations. These include appointing a legal representative in European territory, who will act as an intermediary with the regulatory authorities, and obtaining professional liability insurance valid in the European Union. This insurance aims to cover potential damages arising from commercial activities, such as the promotion of prohibited products or deceptive practices. The implementation of these measures ensures that all actors, regardless of their geographical location, are subject to the same level of legal responsibility when interacting with French consumers, thus fostering a more transparent and equitable digital environment.

#### **4.2.1.2. Regulation in Germany**

Although there is no specific law exclusively regulating influencer marketing in Germany, the State Media Treaty (*Medienstaatsvertrag*) (2020) establishes general rules for online advertising, including obligations applicable to influencers. These laws require that any promotional content be clearly identifiable as advertising to prevent misleading practices. A significant milestone in this area was a 2022 amendment to the Unfair Competition Act, which specifically addresses the issue of covert advertising in influencer content. This amendment requires content creators to disclose any material links, such as sponsorships or payments, using visible tags like #werbung (advertisement) or #anzeige (advertising). These tags must appear at the beginning of posts or videos and in their descriptions to ensure clarity regarding the commercial nature of the content.

The German Advertising Council (*Deutscher Werberat*), as a self-regulatory body, also plays a crucial role in monitoring influencer marketing. This council requires influencers to adhere to the principles of transparency and honesty in their posts, taking action when violations are detected, such as the lack of clear labeling on sponsored content. It has also established guidelines to ensure that creators avoid deceptive or manipulative advertising practices, particularly in sensitive sectors.

In terms of sensitive products, regulation is subject to a broader sectoral legal framework. First, the regulation of tobacco advertising through influencers is governed by the Tobacco Products Act (*Tabakerzeugnisgesetz*) and the provisions of the Youth Protection Act (*Jugendschutzgesetz*). These laws aim to limit minors' exposure to tobacco products and control their marketing, especially in digital environments where influencers operate extensively (Heidt et al., 2024). The advertising of medical products by influencers is regulated by various laws and guidelines designed to protect consumers and ensure the accuracy of information about health products. The main legislative framework includes the German Medicines Act (*Arzneimittelgesetz*, AMG) and the Medicines Advertising Act (*Heilmittelwerbe-gesetz*, HWG) (Döring et al., 2023). As for influencer advertising of gambling, it is regulated by the Interstate Gambling Treaty (*Glücksspielstaatsvertrag*), which was revised in 2021 to establish a more coherent framework for gambling advertising. The regulations prohibit the promotion of gambling products that may appeal to minors or people under 18 and require that all advertising follow specific guidelines designed to protect young audiences from harmful influences (Singer et al., 2022).

#### **4.2.1.3. Regulation in Italy**

With the introduction of new rules by the Italian Communications Authority (AGCOM) in January 2024, the regulatory landscape for influencer marketing in Italy has taken a crucial step toward transparency and accountability. These regulations focus on ensuring that influencers must comply with stricter ethical and advertising standards, addressing concerns related to disproportionate influence and misleading content. The updated regulations establish clear requirements for influencers with more than one million followers who publish content in Italian and work with Italian brands. Among the most significant provisions are the requirement to clearly label all advertising content and compliance with the 2023 Code of Ethics developed by the National Association Igersitalia.

AGCOM has suggested that the one million follower threshold could be lowered, extending the applicability of these regulations to influencers with smaller audiences. This adjustment is significant, as it reflects a broader understanding of the impact micro- influencers can have on specific communities. Studies such as that by Fernández-Gómez et al. (2024) have indicated that even influencers with limited audiences can significantly influence their followers' decisions, reinforcing the relevance of extending the regulations.

#### **4.2.1.4. Regulation in the United Kingdom**

In the United Kingdom, the main regulations in this area are supervised by key bodies such as the Advertising Standards Authority (ASA), the Competition and Markets Authority (CMA), and the Financial Conduct Authority (FCA).

On the one hand, the ASA established that all sponsored posts must be clearly identified to avoid confusion. This includes the use of specific labels such as "Ad" or "Advertisement" at the beginning of promotional content. This regulation applies not only to social media but also to other platforms where influencers may operate, ensuring a uniform standard across the digital advertising market.

For its part, the CMA strengthened this regulation in January 2019 by requiring influencers to disclose any commercial relationship with brands, whether through direct payments, gifts, or product loans. These disclosures must be visible and understandable to consumers. Furthermore, the CMA warns of potential penalties for non-compliance, both for influencers and for brands that benefit from these opaque practices.

Influencer advertising of sensitive products in the UK combines legal regulations and industry codes to specifically protect minors. In the food and beverage sector, the 2003 Communications Act and ASA guidelines prohibit advertising products High in Fat, Sugar, and Salt (HFSS) in programming or settings with a predominantly child audience, with proposals for a ban before 9:00 p.m. and evidence of a positive impact on reducing child exposure (Forde et al., 2022). In gambling, the Gambling Commission requires responsible advertising, without appealing to minors and with

clear sponsorship disclosures (Tatlow-Golden & Parker, 2020). In the tobacco sector, the Tobacco and Related Products Regulations 2016 impose strict restrictions on promotion and require transparency, prohibiting direct or indirect marketing to young people (Watterson & Beck, 2022).

#### **4.2.2. Regulation in Certain Ibero-American Countries**

##### **4.2.2.1. Regulation in Mexico**

In Mexico, the regulation of influencer marketing has advanced significantly with the publication of two key guides by the authorities. The Influencer Advertising Guide, issued by the Federal Consumer Protection Agency (PROFECO, in Spanish) on August 21, 2023, establishes guidelines for content creators on digital platforms to clearly identify advertising in their posts, in compliance with the Federal Consumer Protection Law. Among its recommendations is the use of hashtags such as #Publicidad (Advertising), #PublicidadPagada (Paid Advertising), #Patrocinio (Sponsorship), or #OpinionesPersonales (Personal Opinions), ensuring that this information is visible and easily understandable to consumers. Furthermore, the guide warns against the use of hashtags or links that could confuse the public or hinder the identification of advertising content. This approach seeks to foster greater transparency and trust in influencer marketing practices, which are often perceived as deceptive due to a lack of clarity regarding sponsored content (Neri & Calderón, 2023).

On the other hand, the Federal Commission for Protection against Sanitary Risks (COFEPRIS, in Spanish) published the Guide to Roles and Responsibilities in Influencer Advertising in September 2024. This guide focuses on regulating advertising involving influencers, especially for products requiring special permits, such as dietary supplements, tobacco, alcohol, food and beverages, and cosmetics. It details the responsibilities of advertising brands, advertising agencies, influencers, and media outlets. Furthermore, it includes self-assessment questions to help each party involved in advertising verify their compliance with legal provisions, thereby preventing deceptive practices and promoting consumer protection. These guidelines reflect the efforts of Mexican authorities to establish a clear and up-to-date regulatory framework for influencer marketing, fostering transparency in the digital environment and protecting consumer rights.

##### **4.2.2.2. Regulation in Argentina**

Regulation in this area in Argentina has received attention in recent years, although specific legislation governing this activity is still lacking. In June 2020, a bill entitled "Legal Framework for Influencers" was introduced in the National Congress, aiming to establish guidelines for advertising activities carried out by these individuals on social media. However, this bill was not debated within the established timeframe and, therefore, lapsed.

Despite the absence of specific regulations, the actions of influencers are subject to general legal provisions that aim to protect consumers and ensure transparency in advertising. Among the main applicable regulations is the Consumer Protection Law (Law No. 24.240), which establishes that the information provided in advertisements is binding on the advertiser and prohibits misleading advertising. Likewise, the Fair Trade Law (Law No. 22.802) regulates unfair competition, expressly prohibiting advertising practices that may mislead or confuse consumers regarding the characteristics of products or services. In addition, the Civil and Commercial Code of the Nation includes provisions on liability for damages and the obligation to act in good faith in contractual and extra-contractual relationships.

In addition to these regulations, the Advertising Self-Regulation Council (CONARP, in Spanish) has issued documents to promote transparency and accountability in commercial communication. In August 2022, CONARP published the "Guide for Communication for Commercial Purposes: Recommendations for Influencers," which includes guidelines for clearly identifying advertising content and promoting ethical practices. Therefore, although Argentina lacks specific legislation for influencer marketing, its activity is regulated by a general regulatory framework that prioritizes consumer protection and advertising transparency. However, influencer strategies can challenge these existing regulations, highlighting the need for stricter controls (Demonte et al., 2024).

#### **4.2.2.3. Regulation in Peru**

The regulation of influencer marketing in Peru has progressed in recent years. In August 2024, the National Institute for the Defense of Competition and the Protection of Intellectual Property (Indecopi) updated its "Advertising Guide for Influencers," which states that content creators must clearly identify the advertising nature of their posts. The use of explicit terms such as "advertisement" or "sponsored ad" is recommended, while the use of ambiguous hashtags like "#Publi " or "#Ad" is discouraged. Furthermore, the guide indicates that influencers' opinions or testimonials must be based on recent and real experiences, while also respecting intellectual property rights when creating content. Another significant change in the regulations is the enactment of Law No. 32080 in July 2024, which eliminates the requirement to include the Taxpayer Identification Number (RUC, in Spanish) and company name in digital advertising. This measure seeks to reduce the administrative burden for influencers and companies, as well as restore the efficient functioning of advertising on social networks (González, 2024).

In the area of taxation, the National Superintendency of Customs and Tax Administration (SUNAT) has established that income earned by influencers, whether in cash or in kind, is subject to tax obligations. This income is classified as third-category income, subject to a tax rate of 29.5%. However, there is the option to opt into the Mype Tax Regime, with a reduced rate of 10% for income not exceeding 15 Tax Units (UIT, in Spanish) (Redacción MarketNews, 2023). Indecopi controls influencers' advertising practices through its Commission for the Supervision of Unfair

Competition. Violations may be penalized with fines of up to 3,605,000 soles (approximately 900.00 euros) depending on the severity of the violation, in addition to corrective measures such as the removal of misleading advertising or the correction of information.

## 5. CONCLUSIONS

Regulations on influencer marketing vary significantly among the countries analyzed, highlighting both similarities and differences in their regulatory and sanctioning approaches. In Spain, the regulatory framework combines self-regulatory measures through the Code of Conduct for Advertising through Influencers (2025). and mandatory legal provisions, such as the General Law on Audiovisual Communication and the Regulation on Users of Special Relevance. These regulations establish the obligation to clearly identify advertising, guarantee the protection of minors, and respect ethical principles such as human dignity and gender equality. Furthermore, the financial penalties are particularly severe, reaching up to €1.5 million, making Spain one of the countries with the highest fines on this matter. Penalties in France, while not as high as in Spain, can include prison sentences of up to two years, reflecting a broader coercive approach. But the most noteworthy feature of French regulation is its extraterritorial application, which requires influencers outside the European Union to appoint a legal representative within the EU. In Germany, although there is no specific legislation for influencers, regulation is based on general rules such as the State Media Treaty (*Medienstaatsvertrag*) and the Act Against Unfair Competition (2022). The protection of minors is specifically regulated by the State Treaty on the Protection of Minors in the Media (JMStV). While Spain has a more centralized and cooperative approach with Autocontrol, Germany combines self-regulation with more fragmented and sector-or content-specific regulations, but both prioritize transparency and consumer protection. Italy, in January 2024, updated its regulatory framework with new provisions issued by the Italian Communications Authority (AGCOM). Although these regulations are limited to macro- influencers, AGCOM has raised the possibility of extending them to micro- influencers, reflecting a progressive approach similar to Spain's. However, sanctions in Italy are less severe compared to those in Spain, which could affect their effectiveness. As for the United Kingdom, it has established a robust regulatory framework led by the Advertising Standards Authority (ASA) and Competition & Markets Authority (CMA) also regulates the promotion of financial products, requiring clear and comprehensive risk warnings. Like Spain, the UK applies both financial and legal penalties to influencers and brands, reinforcing transparency and regulatory compliance.

Regarding the comparison between Spanish and Mexican regulations, the guidelines published by the Federal Consumer Protection Agency (PROFECO) and the Federal Commission for Protection against Sanitary Risks (COFEPRIS) in 2023 and 2024, respectively, establish standards for clearly identifying advertising through labels such as #Publicidad (Advertising). They also regulate sensitive products such as dietary supplements and cosmetics. While these can be considered important advances, their approach is more educational and preventative compared to the severe sanctions

applied in Spain. In Argentina, the absence of specific legislation limits the scope of regulation. Influencer activities are governed by general regulations such as the Consumer Protection Law (Law No. 24.240) and the Fair Trade Law (Law No. 22.802). Additionally, the Advertising Self-Regulation Council (CONARP) has published guidelines that promote transparency and ethics in influencer marketing. However, the lack of a specific framework puts Argentina at a disadvantage compared to countries like Spain, where regulations are stricter. Finally, Peru has made significant progress with the 2024 update of its "Advertising Guide for Influencers," issued by Indecopi, which requires explicit labeling of advertising content. Furthermore, Peruvian regulations include specific tax provisions, establishing that influencer income is subject to a 29.5% tax rate. Despite these advances, sanctions in Peru are less severe compared to Spain, but they do include significant fines of up to €900,000 and corrective measures.

The results of this comparative analysis directly address the objectives set out in this study. Firstly, regarding the objective of analyzing Spanish regulations in comparison with those of other countries, it is clear that Spain has one of the most consolidated and stringent regulatory frameworks, combining self-regulation (Self-Control Code of Conduct) with mandatory legal provisions (General Law on Audiovisual Communication and Regulations for Users of Special Relevance). This approach places it in an advanced position compared to other European countries, although it shares similarities with France in terms of its sanctioning capacity and with the United Kingdom in terms of shared supervision among different agencies.

Secondly, when analyzing how regulatory differences affect consumer protection and transparency in digital marketing, the study shows that these variations in regulations have a direct impact on consumer protection, especially regarding transparency and misleading advertising. In countries with stricter regulations, such as those in Europe, consumers are better protected against unfair marketing practices, thanks to the requirement to clearly identify sponsored content and the existence of significant penalties for those who violate these regulations (Tato, 2019). In contrast, in nations where regulation is less developed, such as Argentina, consumer protection is more limited, as specific regulations for influencers are only just beginning to take shape. This regulatory imbalance affects consumers' ability to distinguish between authentic content and advertising, which can lead to confusion and decrease trust in digital media.

One of the biggest challenges in regulating influencers is the transnational nature of their activities. Because these users typically operate on global digital platforms like Instagram, YouTube, or TikTok, their content crosses borders without geographical restrictions. This complicates the enforcement of national regulations, as companies and influencers can exploit differences in regulations across countries to evade sanctions or adapt their advertising practices to more lenient jurisdictions (Suárez-Álvarez & Pastor-Rodríguez, 2023). This disparity creates an unequal playing field where consumers in some countries may be better protected than in others, depending

on the rigor and enforcement of local laws, making it difficult to establish a uniform international regulatory framework.

As influencer marketing continues to gain prominence in the digital economy, it is essential that regulatory frameworks evolve to address emerging challenges. Protecting minors is a key issue that must be addressed, especially given the rise in content targeting young audiences, who are more susceptible to hidden advertising influences. Furthermore, transparency in business relationships between brands and influencers is crucial for maintaining consumer trust. This requires ongoing regulatory updates and the implementation of more effective monitoring and enforcement mechanisms, both in countries with advanced regulatory frameworks and in those where regulations are still developing (Crilley & Gillespie, 2019). Self-regulation, while useful, is insufficient; a more formal and binding approach is needed to ensure greater consistency in consumer protection globally. In practical terms, the study's findings suggest that regulatory bodies should prioritize three lines of action: strengthening transparency mechanisms in the labeling of commercial content, expanding the protection of minors in a rapidly evolving digital ecosystem, and fostering international cooperation to harmonize regulatory criteria.

## 6. LIMITATIONS AND FUTURE LINES OF RESEARCH

This study has limitations, such as a geographical focus restricted to certain countries, excluding regions like the United States and Asia, where regulations may differ significantly; furthermore, the literature review-based methodology limits practical analysis and empirical evaluation of the effectiveness of regulations. It also highlights the need to address the rapidly evolving digital landscape and the adaptation of regulations to new platforms such as TikTok or the metaverse. Future research, in addition to expanding the geographic scope, could empirically assess the actual impact of these regulations on consumer trust and the effectiveness of digital marketing, as well as explore the role of emerging technologies (artificial intelligence, metaverse) in transforming regulatory practices.

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