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Examining Influencer Marketing Practices and Disclosure in Malaysia

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Abstract

Recent times have seen social media influencers becoming the foundation of 'influencer' based marketing practices. This phenomenon raises certain legal concerns, including the issue of disclosure. This study examined influencer marketing practices in Malaysia on Instagram and explored Malaysia's need to review its regulation, especially when it comes to disclosure. Although preliminary, the findings of this study give an overview of the marketing practices undertaken by these influencers and the lack of disclosure of 'material connection' between the business or brand and the influencers. It is concluded that Malaysia needs to acknowledge this concern and revised its laws.

Keywords: disclosure; influencer marketing; social media; regulation

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1.0 Introduction

Influencer marketing in the digital age may be a new form of marketing tool in Malaysia, but it is a booming trend. This form of marketing, also known as 'the digital version of mouth marketing' (Sinkwitz, 2016), engages a category of people termed as 'social media influencer' for marketing products or services through the myriad of social media channels, often in exchange for money, or free or discounted products, or services. These so-called 'influencers' are those individuals having a significant number of following on social media platforms, including Twitter, Instagram and Facebook (Smith et al., 2018). Several studies have shown that social media influencers play an important role as a reference group in consumers' purchase behaviour these days due to their popularity or relationship with their followers, which in turn makes marketing through these influencers a success (Barker, 2017; Berger, 2012; Ewers, 2017; Khatib, 2016; Linh, 2018; Low & Lim, 2012; Smith et al., 2018; Wiley, 2017; Woods, 2016).

With a 132.9% mobile phone penetration rate in Malaysia, as noted by the Malaysian Communications and Multimedia Commission (MCMC) Internet Users Survey in 2017, marketing through social media influencers could certainly reach Malaysian users. These users' top online activities include text communication (96.3%), browsing social media (89.3%) and information access (86.9%). Out of those who visit social media sites, the survey reported that 97.3% have Facebook accounts, and 56.1% have accounts on Instagram. Indeed, even the President of the Malaysia Retail Chain Association, Garry Chua, when speaking to The Star Online in 2018, acknowledged that social media influencers are valuable for businesses today. Many of them have included these influencers in their marketing strategies (Yuen, 2018). Although this marketing trend is a recent phenomenon in the marketing field in Malaysia, marketing agencies have been reported by the media to regularly engaged in such marketing strategy (Dhesi, 2020). Local media have also interviewed a

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couple of influencers who admitted to having turned to social media 'influencing' as a career. These influencers reported regularly being approached to promote products and services in the beauty, sports and lifestyle categories (A Malek, 2018).

However, this phenomenon raises certain legal concerns. According to Faizol & Nawi (2018), a common legal issue in the usage of social media influencers in marketing in Malaysia is the lack of disclosure of endorsement practices under marketing laws. The issue of disclosure has been extensively touched upon in the media abroad. It has garnered the attention of regulatory agencies such as the U.S. Federal Trade Commission (FTC) and the Italian Competition Authority, which has been very concerned with the practice of hidden advertising by these influencers. In 2018, the FTC started sending reminders to 90 influencers that full disclosure of any 'material connection' with advertised consumer goods or services is a duty, emphasising that truth in advertising and marketing also applies to social media.

Thus far, the lack of full disclosure in influencer marketing practices has become one of the most common violations under marketing laws that has been widely discussed. Studies have shown that influencers' credibility and lack of disclosure in their endorsement practices on their social media accounts have now become rife (Abidin & Ots, 2016; Gürkaynak, Kama & Ergün, 2018). In Malaysia, marketing agencies have also started to acknowledge how consumers are now wary of the authenticity and credibility of recommendations made by social media influencers (Dhesi, 2020). However, local lawmakers are slow to keep pace with technological change, including the evolving social media landscape. Inquiries made to the Malaysian Communications and Multimedia Commission (MCMC) in April 2019 revealed that Malaysia has yet to have any specific guidelines or regulations for social media influencers, especially in ensuring that sponsored or advertisement-based posts on social media accounts are clearly labelled and identified. A review of legislation in Malaysia regarding disclosure also shows that the Malaysian marketing industry has been silent on the matter. Although available for regulating traditional marketing and advertisement, current laws in Malaysia are limited in scope and lack detailed guidelines in dealing with influencer marketing. The regulatory framework for Malaysia thus still lags for as long as the significant impact of influencers' marketing activities remains heavily underestimated.

This study thus seeks to provide a preview of influencer marketing practices in Malaysia and assess whether such practices warrant a specific regulation, especially when it comes to disclosure. The study review postings may be categorised as endorsements by selected local social media influencers and assess disclosure in any of these postings. The findings of this study are preliminary and not extensive. However, they would provide an understanding of the subject matter at hand, at least when regulating disclosure in influencer marketing.

For this study, considering the advancement of the USA in dealing with endorsements and disclosures in influencer marketing, the 2018 FTC's 'Endorsements Guides' is heavily referred to in assessing whether disclosure is necessary in the reviewed postings. The FTC Guides provide 35 examples of various endorsement scenarios as a point of reference, especially for the social media influencer in deciding whether to disclose the material connection with the brand, even if businesses gave free products to an influencer in hopes for a positive review from the influencer. If such a connection is not disclosed, the influencer can be held liable for deceptive social media endorsement. The study focuses its assessment on the social media platform; Instagram, for it is currently one of the most popular platforms for influencer marketing in Malaysia (AnyMind Group Inc. 2020). Instagram is acknowledged to be a popular influencer marketing platform due to its high levels of user engagement generated from its visual content interface (Evans, Phua, Lim & Jun, 2017; Jaakonmäki et al., 2017).

The next section of this paper summarises the concept of digital age influencer marketing and the different marketing practices possible on social media, followed by a discussion on the importance of disclosure in influencer marketing. The paper further detailed the methodology adopted for the study, followed by a review of the findings and recommendations.

2.0 The Need for Disclosure in Influencer Marketing

The traditional version of influencer marketing existed long before the internet reached our shores. For decades, business has been hiring individuals with a significant social impact, such as celebrities, athletes, and motivators to advertise or endorse products or services through traditional media. However, the emergence of social media networks has now changed the way marketing works profoundly. Modern influencer marketing relies on social media influencers, individuals with a significant social media following, to boost online engagement for the business or brand's endorsed product or service (Barker, 2017; Ewers, 2017; Khatib, 2016; Linh, 2018; Low & Lim, 2012; Samat et al. 2014; Smith et al., 2018; Wiley, 2017; Woods, 2016).

Determining whether these so-called influencers are genuinely 'influential' is often problematic. However, according to Goanta and Ranchordás (2019), an individual can be considered as an influencer based on several elements; that is the type of industry these influencers operate, the source of their social media popularity, the number of followers and content engagement, and the existence of a business underlying the influencer's operation. Regardless, the most important factor in influencer marketing rests on the ability of these influencers to monetise content on social media.

Paid endorsements and sponsorships are, therefore, a regular occurrence in influencer marketing. Although regulations may vary, this meant, social media influencers engaged in such marketing activities have a duty to disclose their advertising relationships with the businesses, including when the influencer receives a free product and/or compensation in exchange for his or her endorsement, testimonial or review (Boerman, Willemsen, & Van Der Aa, 2017; Khamis, Ang, & Welling, 2017; Smink, Boerman, & Reijmersdal, 2017). Disclosure becomes even more necessary because, unlike the traditional marketing method, in which we recognise that celebrities are paid to promote certain products or services, similar recognisance is often undetectable in influencer marketing. Considering the extent of influence these social media influencers have on at least a majority of their followers, sufficiently disclosing the partnerships between marketers and influencers is vital to increasing transparency. It will also prevent their followers and consumers from feeling deceived

about a product or service endorsed by the influencer. Legally, Malaysian legislation is yet to cover this concern. In this country, marketing is self-regulatory. The protection provided by the Consumer Protection Act 1999 (CPA) for e-consumers against misleading and deceptive conduct, false representation, and unfair practices does not cover goods or services marketed on social media platforms. Full disclosure of advertising and marketing relationship is imperative under consumer protection laws to avoid misleading and confusing consumers in their purchase decision. This study next explores the sorts of marketing practices currently employed by social media influencers in Malaysia and whether disclosure is evident in influencer marketing practices in Malaysia.

3.0 Methodology

In fulfilling the research aims, data were collected, coded and qualitatively analysed from the contents of postings published by selected social media influencers in Malaysia on the Instagram platform from January 2019 to April 2019. For the record, Instagram is a social media platform based on sharing photos and videos, allowing for captions and emojis, and the accounts where these photos and videos are posted can be followed (Hu et al., 2014). On the accounts, the followers can like, comment, share and save the posts, referred to as engagement in its context. This study is a preliminary one, aiming to provide an overview of social media influencers' marketing practices in Malaysia. The study is limited to the content analysis of Instagram postings from ten selected accounts. The sample is relatively small in order to allow an in-depth analysis of the postings. The ten selected social media influencers were shortlisted based on initial search protocols and outcomes via a Google search using the terms 'top influencers & Malaysia & 2019'. The search results were filtered, and the top ten influencers with the highest number of followers on their respective accounts were chosen to be reviewed. Although the number of followers does not necessarily represent similar number of engagements, but the criteria is chosen based on the assumption that influencers with a large number of following has greater reach and influence to their followers and consumers in general. Information regarding the name of the influencers and number of followers were compiled and corroborated by examining their Instagram accounts before a final list is presented here in Table 1. Notably, these influencers mostly hailed from a similar type of industry: entertainment and are considered show-business professionals.

Due to the sheer number of posts on the accounts of these top influencers, the investigation is limited to contents posted from January to April of 2019. Overall, 2398 posts from the ten accounts were retrieved and analysed. The postings were browsed and sorted into five categories - personal matters, career-related, products, services, events. Each post is sampled against the 35 examples of various endorsement scenarios suggested by the USA's FTC's 'Endorsements Guides'. Posts likely to be endorsements or reviews are identified based on terms or scenarios used in the postings. The criteria include:

- thanking a brand or business and tagging them in posts,
- posts of products or certain events or place which consists of a 'hashtag' of a certain brand or business or place,
- promoting certain contests of any brand or business,
- reviewing a particular business or brand, including food and beverage and hospitality services.

Posts likely to be endorsements or reviews identified and disclosed by these influencers are also noted. In clarifying the assumption of whether these influencers are involved in endorsement and/or review of product or services, they are also approached in private to probe on their terms and conditions for prospective product and/or service endorsement or review.

4.0 Findings

Instagram accounts of the ten chosen Malaysia-based influencers examined (see Table 1) shows that in the four months (January to April) of 2019, several contents posted by them are likely to be some form of product or service endorsements or reviews. However, none of the posts, except by three influencers, indicated paid or sponsored endorsements. Examination of their accounts revealed that most of the posts which contained contents of possible product endorsements or reviews do not carry further information suggesting the paid or sponsorship relationship with the business that engage their services. The summary of the overall findings is tabulated in the following table.

Table 1. Review of Posts by Malaysia-based Top Influencers on Instagram (Jan – Apr 2019)

#	@username	Name	Profession/ Specialty	IG Followers #	Latest Number of Followers (April 2019)	Number of Posts Since Jan 2019	Number of Posts Likely to be an Endorsement/ Review in 2019 (April 2019)	Number of Posts Likely to be an Endorsement/ Review in 2019 which are disclosed as advertisement/ review
1	@ctdk	Siti Nurhaliza	Singer	6.2M	6.3M	537	101	none
2	@neelofa	Neelofa	Host, Actress	6.1M	6.2M	151	67	none
3	@noradanish	Nora Danish	Actress	5.8M	5.9M	394	60	none

4	@zizanrazak869	Zizan Razak	Comedian/ Actor	5.7M	5.9M	153	26	None
5	@schaalyahya	Scha Alyahya	Model/ Actress	4.7M	4.8M	358	124	3
6	@haniszalikha	Hanis Zalikha	Blogger/ Actress	4.7M	4.8M	92	30	none
7	@missfazura	Nur Fazura	Actress	4.5M	4.6M	147	51	none
8	@jannanick	Janna Nick	Actress	4.4M	4.6M	167	81	33
9	@elfiralo	Elfira Roy	Actress	4.4M	4.4M	145	72	none
10	@mfmirafilzah	Mira Filzah	Host/ Actress/ Model	4.3M	4.4M	254	97	6

(Source: Instagram)

These influencers are active on the platform with regular posting of contents ranging from personal matters, career-related products, services, and personal or career-related events. They posted contents related to products or services observed to be akin to product or service endorsement. Some of these influencers even welcome future negotiation for advertisements (also commonly known as 'paid reviews' amongst Instagram users) from those who visit their account (see example Figure 1). As can be seen on the Instagram account shown in Figure 1, the account holder with 6.7 million followers has left an email address (ads@xx) on her account profile understood to be for inquiries on advertisements. But none of the postings reviewed from the account that is likely to be considered as an endorsement or paid review between January and April 2019 was declared.

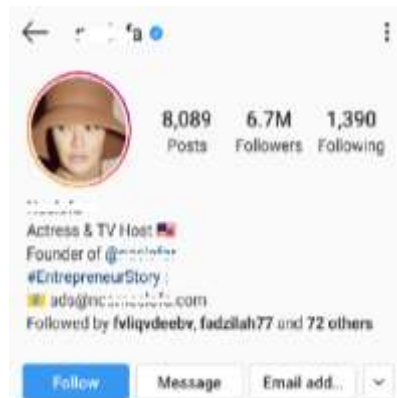


Fig. 1: Sample Profile & Posts on Instagram (Jan – Apr 2019)
(Source: Instagram)



Fig. 2: Sample of Posts on Instagram (Jan – Apr 2019)
(Source: Instagram)

The review also shows that most of these influencers do not disclose if any of their posts are sponsored or compensated, even when

Under current marketing laws, those involved in marketing and advertising have a duty to disclose all the relevant information that consumers should know before buying the products or engaging any services to avoid any confusion and ensure that their marketing activities should not be false, misleading, deceptive. Most posts by these social media influencers are devoid of such disclosure. Full disclosures are meant to provide transparency and honesty for all viewers of the sponsored post. In other words, a material connection between the brands and the influencers need to be disclosed clearly, conspicuously, and broadly to be easily understood in the post. Influencers must let the consumers know that they are being paid to post about a brand or product on their social media accounts. Without full disclosure, the post might appear as if the influencers are posting about their honest opinion or recommendation of the products/services, which can be misleading. Consumers have a right to know if it is an advertisement and not misled into believing that the posts come from the influencers' genuine opinion. Knowing the influencers are paid or being compensated to promote the products will shape how the consumers value the posts and how much weight would be given to the post in making their purchase decision. The influencers reviewed for the study also do not realise that they have certain responsibilities, to be honest to their followers when making endorsements for businesses. This situation is rather alarming considering that they are the most well-known show-business professionals in Malaysia and should be well-informed of their role as public figures.

6.0 Conclusion: The Need for Regulation

This study has examined a segmented part of influencer marketing practices in Malaysia on the social media platform Instagram. Notably, the study has its limitations. It is a relatively small-scale pilot, qualitative research, and the findings are preliminary. However, its findings provide initial insights into the sorts of marketing practices currently employed by social media influencers in Malaysia and the frequent lack of disclosure of 'material connection' between the business or brands and the influencers. This situation occurs even when postings of contents are likely to be categorised as an endorsement of a product or service. In Malaysia, no regulation requires the influencer to disclose their sponsored/material connection with any business on social media. The lack of regulation for full disclosure in influencer marketing in Malaysia means influencers are not necessarily bound by such duty.

Admittedly, influencer marketing in Malaysia is still considered a new phenomenon. Many Malaysians, including some business and influencers, may still not grasp its whole concept and the legal perspectives. Nevertheless, as this method in marketing is fast becoming a trend, there is a need to re-examine the adequacy of the regulatory framework in Malaysia applicable to this new development, especially when it comes to disclosure. MCMC acknowledge that Malaysian laws, including the Communications and Multimedia Act 1998, Consumer Protection Act 1998, and Medicine (Advertisement & Sale) Act 1956, have limited scope and protection for consumers. They lack detailed guideline in dealing with social media influencer. However, these influencers are still subject to these laws. While the duty of disclosure may be present under traditional marketing laws, but when it comes to enforcement, the lack of specified regulation may prove to be a challenge in ensuring influencers' compliance with such duty. Further research will also need to be conducted to widen the scope of the data examined and assess the extent to which these non-disclosures affect consumers' purchase decision-making in Malaysia.

Furthermore, violation of general laws on marketing continues to be common when these Malaysian-based social media influencers engage in their marketing activities. It is high time, then, for Malaysia to acknowledge this growing concern in influencer marketing and its role in social media and welcome new laws in dealing with them. Future research should then consider best practices and policies from several jurisdictions to develop the relevant law for Malaysia.

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