VIRAL BUT VERIFIED? EXAMINING THE LEGAL ACCOUNTABILITY OF DIGITAL CREATORS FOR MISLEADING HEALTH AND BEAUTY CLAIMS IN INDIA

by

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ABSTRACT

The rapid growth of social media has transformed digital creators into influential voices capable of shaping consumer behaviour[2] on an unprecedented scale. Unlike traditional advertisements, creator-generated content often appears personal, relatable, and trustworthy, making it significantly more persuasive. This influence is particularly evident in the health and beauty sector, where creators routinely promote skincare products, nutritional supplements, cosmetic treatments, weight-loss solutions, and wellness products through videos, reels, and personal testimonials. While such content may appear to be genuine recommendations, it frequently contains exaggerated or unverified claims that can mislead consumers and influence important health-related decisions.[3]

Recognising these risks, India has gradually strengthened its regulatory framework through the Consumer Protection Act, 2019[4], the Consumer Protection (Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements) Guidelines, 2022[5], the Advertising Standards Council of India (ASCI)[6] Guidelines for Influencer Advertising, and the Food Safety and Standards Authority of India (FSSAI) regulations[7] governing health and nutrition claims. Despite these developments, the existing legal framework continues to face challenges in addressing the unique nature of influencer-driven marketing, where the distinction between personal opinion and commercial endorsement is often blurred.

This article critically examines whether digital creators should be viewed merely as content creators or as legally accountable endorsers when they promote health and beauty products with misleading claims. It analyses the existing legal framework, identifies regulatory gaps, and argues that influencer accountability must extend beyond simple disclosure requirements. As digital

[1]LLM Business Law.
[2]Consumer Protection Act 2019.
[3]World Health Organization, health communication source.
[4]Consumer Protection Act 2019.
[5]Consumer Protection (Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements) Guidelines 2022 (CCPA Guidelines 2022).
[6]Advertising Standards Council of India (ASCI) Guidelines for Influencer Advertising in Digital Media.
[7]Food Safety and Standards (Advertising and Claims) Regulations 2018.

creators increasingly profit from consumer trust, they must also bear a corresponding responsibility to ensure that the claims they communicate are accurate, transparent, and capable of verification. The article concludes that effective regulation should strike a balance between encouraging creative expression and safeguarding consumers from deceptive commercial practices in the rapidly evolving digital marketplace.

Keywords

Digital Creators, Influencer Marketing, Misleading Advertisements, Consumer Protection Act, 2019, CCPA Guidelines, Health Claims, Beauty Claims, Social Media Advertising, ASCI[8] Guidelines, FSSAI Regulations, Consumer Rights, Digital Accountability, Endorsements, Platform Economy.

The Rise of the Digital Creator Economy and Influencer Marketing in India

The digital revolution has fundamentally transformed the way businesses communicate with consumers. Advertising, once dominated by television commercials, newspaper campaigns, and celebrity endorsements, has gradually shifted towards social media platforms where digital creators influence millions of purchasing decisions every day. This transformation has given rise to what is now commonly referred to as the creator[9] economy, an ecosystem in which individuals monetise their online presence by producing content, building communities, and collaborating with brands to market products and services.

India has emerged as one of the world's fastest-growing digital markets[10]. The increasing availability of affordable smartphones, inexpensive internet services, and user-friendly social media platforms has enabled content creation to become a viable profession. Instagram, YouTube, Facebook, Snapchat, and similar platforms[11] are no longer merely spaces for entertainment; they have evolved into sophisticated digital marketplaces where creators function as advertisers, entrepreneurs, educators, reviewers, and opinion leaders simultaneously. The scale of this shift is considerable in monetary terms as well. Industry estimates place India's influencer marketing sector at approximately Rs 3,600 crore in 2024, with projections of it crossing Rs 5,000 crore within a few years, growth that is increasingly being driven by micro and nano creators in Tier-2 and Tier-3 cities rather than by metropolitan celebrities alone.[12] As businesses increasingly recognise the commercial value of these creators, influencer marketing has become one of the most effective advertising strategies in the digital economy.

Unlike traditional advertising, influencer marketing operates on the foundation of trust rather than publicity. Consumers are fully aware that television advertisements are paid promotions. However, content created by digital creators often appears spontaneous and personal. Followers watch creators' daily routines, skincare regimens, fitness journeys, and lifestyle choices over extended

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[8]ASCI, official guidelines.
[9]OECD/World Bank report on the creator and digital economy.
[10]Industry report on India's digital market.
[11]Data Reportal, India digital report.
[12]WPP Media/Kantar, 'Influencer Trust Report' as reported in Social Samosa, 'Influencer Marketing in India Valued at ₹3,600 Crore, Set to Grow 25% in 2025: Report' (Social Samosa, 11 June 2025) <https://www.socialsamosa.com/report/influencer-marketing-india-valued-3600-crore-9354540> accessed 29 July 2026.

periods, creating a sense of familiarity and emotional connection. This phenomenon, often described as a parasocial relationship[13], leads audiences to perceive creators as relatable individuals rather than commercial promoters. Consequently, recommendations made by creators frequently carry greater persuasive value than conventional advertisements because they are viewed as authentic personal experiences instead of scripted marketing campaigns.

This relationship of trust has significant commercial implications. Businesses no longer rely exclusively on film stars or sports personalities to promote their products. Instead, they increasingly collaborate with creators who possess dedicated niche audiences. A skincare influencer with two hundred thousand followers may generate more consumer engagement than a nationally recognised celebrity because their audience perceives them as knowledgeable and trustworthy within that particular field. This shift demonstrates that influence in the digital economy is no longer measured solely by popularity but by credibility and audience engagement. This shift is not merely anecdotal. A May 2025 report by the Boston Consulting Group, released at the WAVES 2025 summit in Mumbai, found that Indian creators already influence over USD 350 billion in consumer spending annually, a figure projected to surpass USD 1 trillion by 2030, underlining why regulators increasingly treat creator recommendations as a mainstream commercial force rather than a marginal or purely expressive activity.[14]

Commercial collaborations between brands and creators have also become increasingly sophisticated. Promotional activities now extend beyond simple sponsored posts to include affiliate marketing, product gifting, paid reviews, brand ambassadorships, exclusive discount codes, long-term partnerships, live-stream shopping, and commission-based sales. In many instances, creators earn substantial revenue directly from consumer purchases generated through their promotional content. Such financial arrangements clearly indicate that influencer marketing is not merely a form of personal expression but an organised commercial activity forming an integral part of modern business strategy.

Among the various industries embracing influencer marketing, the health and beauty sector[15] occupies a unique position. Products such as collagen supplements, protein powders, skin-lightening creams, anti-ageing serums, sunscreens, herbal wellness products, hair-growth oils, nutritional gummies, probiotic drinks, and weight-management supplements are heavily promoted through digital creators. The marketing techniques employed in this sector are particularly persuasive because they rely upon visual demonstrations, transformation stories, before-and-after photographs, testimonials, and claims of rapid improvement. Such content appeals directly to consumers' aspirations regarding appearance, confidence, and well-being.

However, this commercial success has also generated serious legal and ethical concerns. Many promotional claims circulated through digital platforms are not supported by credible scientific

[13]D Horton and R Wohl, 'Mass Communication and Para-Social Interaction' (1956) 19 Psychiatry 215.

[14]Boston Consulting Group, 'From Content to Commerce: Mapping India's Creator Economy' (WAVES 2025, Mumbai, May 2025), summarised in Coherent Market Insights, 'India Creator Economy Market Forecast, 2026-2033' <https://www.coherentmarketinsights.com/industry-reports/india-creator-economy-market> accessed 29 July 2026.

[15]Market report on the health and beauty industry.

evidence[16]. Statements suggesting that a cosmetic product can permanently remove pigmentation, that a nutritional supplement can cure hormonal disorders, or that a beauty drink can reverse ageing are often presented without adequate substantiation. Although these claims may significantly influence purchasing decisions, they frequently blur the distinction between personal opinion, commercial endorsement, and scientific fact. Consumers, particularly younger audiences, may interpret such representations as reliable health advice rather than promotional content.

The persuasive nature of influencer marketing becomes even more problematic when advertisements are disguised as ordinary lifestyle content. A creator may incorporate a sponsored product into a morning skincare routine, fitness vlog, or daily wellness discussion without making the commercial relationship immediately apparent. Even where disclosures such as #Ad, #Sponsored[17], or Paid Partnership are provided, they are sometimes inconspicuous or overshadowed by strong promotional messaging. Consequently, consumers may fail to recognise that the recommendation is influenced by financial consideration rather than independent experience.

From a legal perspective, this evolution fundamentally alters the role of digital creators. Traditionally, advertising law primarily imposed responsibility upon manufacturers, advertisers, and celebrity endorsers. In today's digital marketplace, however, creators actively participate in shaping consumer perceptions and purchasing behaviour. Their recommendations influence not only product sales but also decisions concerning health, nutrition, skincare, and personal well-being. Therefore, it becomes increasingly difficult to classify them merely as private individuals exercising freedom of speech. Where promotional content is created in exchange for monetary or commercial benefits, creators perform functions comparable to professional advertisers and should reasonably be expected to exercise corresponding standards of honesty, transparency, and due diligence.

This changing commercial landscape raises a fundamental legal question: Should digital creators who profit from consumer trust continue to enjoy the privileges of ordinary social media users[18], or should they also bear the legal responsibilities traditionally imposed upon advertisers and endorsers? The answer to this question lies at the heart of contemporary consumer protection law[19]. As influencer marketing continues to expand, the law must evolve to ensure that commercial success is not achieved at the expense of consumer rights, public health, or truthful advertising. The rapid growth of the creator economy therefore represents not merely a technological or economic development but a significant legal challenge requiring a careful balance between commercial freedom, freedom of expression, and consumer protection.

Misleading Health and Beauty Claims in the Digital Age: A Contemporary Consumer Protection Challenge

The digital marketplace has fundamentally altered the manner in which health and beauty products are advertised and consumed. Unlike traditional advertising, which was subject to editorial control and identifiable commercial formats, social media marketing is decentralised, continuous, and

[16]WHO / evidence-based medicine sources on health claims.
[17]ASCI, Disclosure Guidelines for Influencer Advertising.
[18]Consumer Protection Act 2019.
[19]Consumer Protection Act 2019.

highly personalised. Every scroll through Instagram, YouTube Shorts, or Facebook exposes consumers to countless recommendations for skincare products, collagen supplements, protein powders, anti-ageing creams, herbal remedies, weight-loss drinks, sunscreens, and cosmetic treatments. These recommendations are rarely presented as advertisements. Instead, they are embedded within morning routines, "Get Ready With Me" videos, skincare diaries, fitness challenges, or personal transformation stories, making commercial promotion appear indistinguishable from genuine life experiences.

This transformation has created a new category of consumer vulnerability.[20] Consumers no longer purchase products merely because a company advertises them; they purchase them because someone they admire appears to have personally benefited from them. The emotional connection between creators and their followers often overrides scientific reasoning. A recommendation made by a familiar influencer is frequently perceived as more trustworthy than product labels, advertisements, or even professional consultations. Consequently, digital influence has become a powerful commercial asset capable of shaping purchasing behaviour on an unprecedented scale.

The health and beauty sector is particularly susceptible to this phenomenon because it thrives on aspiration rather than necessity. Products are often marketed by promising flawless skin, instant weight loss, hormonal balance, improved immunity, thicker hair, brighter complexion, reduced pigmentation, or younger-looking skin within remarkably short periods. Marketing campaigns frequently employ expressions such as "clinically proven,"[21] "dermatologist recommended," "doctor recommended," "clinically tested," "scientifically formulated," "DNA repair technology," "boosts collagen production," "cell renewal formula," "medical-grade skincare," "toxin-free," "chemical-free," "100% safe," and "visible results in just seven days." To an average consumer, such terminology creates an impression that the product has undergone rigorous scientific testing and enjoys medical approval. However, these representations are not always accompanied by verifiable clinical evidence or transparent scientific data. In many instances, consumers are persuaded more by technical-sounding language than by genuine scientific substantiation.

The commercial success of health and beauty products therefore depends not only upon their actual effectiveness but also upon persuasive storytelling, emotional engagement, carefully curated visual content, and the strategic use of scientific terminology. A creator confidently explaining the "science" behind a serum or supplement often appears more convincing than a conventional advertisement because the information is delivered in an informal, conversational manner. Unfortunately, this also increases the likelihood that consumers will accept promotional statements as established scientific facts without questioning their accuracy.

Recent developments demonstrate that misleading advertisements in the health and beauty industry are no longer isolated incidents but part of a broader regulatory concern. The controversy surrounding Bournvita,[22] where excessive sugar content and health-related promotional claims became the subject of widespread public debate, highlighted the growing influence of social media in questioning product representations. The Bournvita episode is instructive in showing how a single creator's content can trigger regulatory action: in April 2023, a video by the influencer Revant Himatsingka questioning the sugar content of Bournvita received approximately twelve

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[20]OECD, Consumer Vulnerability Report.
[21]Food Safety and Standards Authority of India (FSSAI) regulations.
[22]News report on the Bournvita controversy.

million views, after which the National Commission for Protection of Child Rights directed Mondelez India to withdraw advertisements, packaging, and labels found to be misleading, and the company subsequently reformulated the product to reduce its sugar content.[23] Similarly, judicial proceedings involving Patanjali Ayurved[24] intensified national discussions on misleading health advertisements and the responsibility of manufacturers in substantiating therapeutic claims. These developments signalled that exaggerated health claims are no longer viewed merely as aggressive marketing techniques but as issues directly affecting consumer rights and public health.

The growing concern is not limited to manufacturers alone. Increasingly, digital creators themselves have become central participants in this ecosystem. Many influencers actively promote nutritional supplements, skincare products, cosmetic procedures, herbal medicines, and wellness products by making statements that extend beyond the information provided on product packaging. Claims such as "this supplement cured my hormonal imbalance," "this serum permanently removed my acne scars," "this sunscreen provides complete protection against skin damage," "this collagen powder reverses ageing," "this detox drink cleanses your liver," or "this probiotic heals your gut naturally" are frequently presented without reference to recognised medical research or reliable scientific evidence. When repeated before millions of followers, such statements possess the capacity to influence consumer behaviour on a massive scale, particularly among young audiences seeking quick solutions to health and cosmetic concerns.

Another emerging challenge is the rapid growth of AI-assisted content[25] creation. Brands increasingly employ artificial intelligence to generate promotional scripts, synthetic testimonials, enhanced product demonstrations, and hyper-personalised advertisements. AI-generated visuals can exaggerate before-and-after results, while algorithm-driven recommendation systems repeatedly expose consumers to similar promotional content based on their browsing behaviour. This is already a measurable trend within the Indian creator ecosystem itself. A 2026 industry survey found that nearly fifty-nine per cent of Indian creators now regularly use artificial intelligence tools for content ideation, creative design, and trend analysis, indicating that AI-assisted promotion is becoming embedded in ordinary influencer practice rather than remaining a marginal or experimental technique.[26] As a result, misleading claims are no longer spread solely by individual creators but are amplified through sophisticated technological systems that reward engagement rather than accuracy. This development raises an important legal question: should responsibility remain confined to creators and brands, or should digital platforms also bear greater accountability for amplifying misleading commercial content?

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[23] National Commission for Protection of Child Rights, Notice to Mondelez India, reported in 'Bournvita Sugar Content Row: NCPCR Asks Health Drink Brand to Remove "Misleading" Ads' (Organiser, 26 April 2023) <https://organiser.org/2023/04/26/171154/bharat/bournvita-sugar-content-row-ncpcr-asks-health-drink-brand-to-remove-misleading-ads/> accessed 29 July 2026; 'FoodPharmer' (Wikipedia) <https://en.wikipedia.org/wiki/FoodPharmer> accessed 29 July 2026.
[24] Supreme Court proceedings, Indian Medical Association v Patanjali Ayurved Ltd.
[25] UNESCO/OECD report on artificial intelligence.
[26] Kofluence, 'Decoding Influence: Annual Research Report 2026', summarised in IBTimes India, 'India's Influencer Marketing Sector May Reach Rs 5,000 Crore by 2027: Report' (IBTimes India, 14 May 2026) <https://www.ibtimes.co.in/indias-influencer-marketing-sector-may-reach-rs-5000-crore-by-2027-report-902044> accessed 29 July 2026.

Algorithmic amplification[27] presents another significant regulatory concern. Social media platforms prioritise content capable of generating high engagement. Dramatic transformation stories, sensational health advice, and extraordinary product claims typically receive more likes, shares, and recommendations than balanced, evidence-based discussions. Consequently, misleading advertisements often spread faster than factual corrections. By the time regulatory authorities investigate a deceptive claim, the content may already have reached millions of users, been reposted across multiple platforms, and influenced thousands of purchasing decisions. The existing enforcement mechanism therefore struggles to keep pace with the speed of digital communication.

Recent regulatory initiatives reflect an increasing recognition of these challenges. The Central Consumer Protection Authority (CCPA) has strengthened enforcement against misleading advertisements and endorsements, while the Advertising Standards Council of India (ASCI) has continued to refine its Influencer Advertising Guidelines by emphasising transparent disclosures and, in the case of health and nutrition content, requiring creators to possess relevant qualifications before presenting themselves as experts. These developments demonstrate a clear policy shift from merely regulating advertisements to regulating the conduct of those who commercially influence consumer decision-making.

Nevertheless, significant legal uncertainties remain. Current laws do not comprehensively define the precise standard of due diligence expected from digital creators before endorsing health and beauty products. It is equally unclear whether creators should independently verify scientific claims made by brands or whether reasonable reliance upon manufacturers is sufficient to avoid liability. Similarly, the extent of responsibility that should be imposed upon digital platforms for algorithmically promoting misleading commercial content remains an evolving question within Indian digital governance.

The challenge, therefore, extends beyond preventing false advertisements. It concerns preserving consumer trust in an era where commercial promotion is increasingly disguised as personal experience and where technology enables misinformation to spread faster than regulation can respond. The creator economy has transformed trust into a valuable commercial commodity. Consequently, protecting that trust has become not merely an ethical expectation but an essential objective of contemporary consumer protection law. Against this background, it becomes necessary to examine how the existing legal framework in India addresses misleading health and beauty claims and whether it is adequately equipped to regulate the rapidly evolving digital marketplace.

The Legal Framework Governing Misleading Health and Beauty Claims in India

The exponential growth of influencer marketing has exposed the limitations of traditional advertising law. Indian consumer protection legislation was originally designed to regulate conventional advertisements published through newspapers, television, radio, and print media, where the advertiser, manufacturer, and publisher were easily identifiable. The emergence of the creator economy has significantly complicated this regulatory framework. Today, a single promotional post may involve a manufacturer, an advertising agency, a digital creator, an influencer management company, an affiliate marketing platform, and a social media intermediary.

[27]Research on platform recommendation algorithms.

Consequently, determining legal responsibility for misleading advertisements has become considerably more complex than under the traditional advertising model.

Unlike conventional advertisements, influencer-generated content is intentionally designed to resemble ordinary communication. Promotional messages are integrated into daily routines, travel vlogs, skincare diaries, fitness challenges, or "honest reviews," making it difficult for consumers to distinguish commercial endorsements from independent opinions. This deliberate blending of advertising and personal expression raises a fundamental legal concern: should the law regulate influencer content merely because it appears persuasive, or because it functions as commercial advertising regardless of its informal presentation?

Indian law increasingly adopts the latter approach. Modern consumer protection law focuses less on the format of communication and more on its commercial purpose and consumer impact. If a communication has the capacity to influence purchasing decisions through misleading representations, it may attract legal scrutiny irrespective of whether it appears in a television commercial, an Instagram Reel, a YouTube video, or a live-stream session. This functional approach reflects the recognition that consumer harm remains the same even though advertising techniques have evolved.

The legal regulation of misleading health and beauty claims in India does not arise from a single statute. Instead, it is governed through an interconnected framework comprising the Consumer Protection Act, 2019, the Consumer Protection (Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements) Guidelines, 2022, sector-specific legislation regulating food, cosmetics, drugs, and medicinal claims, together with self-regulatory standards issued by the Advertising Standards Council of India (ASCI). Although each instrument operates within a distinct regulatory sphere, their common objective is to ensure that consumers receive truthful, transparent, and scientifically substantiated information before making purchasing decisions.

The Consumer Protection Act establishes the statutory foundation by prohibiting misleading advertisements and empowering regulatory authorities to take action against manufacturers, advertisers, publishers, and endorsers. The CCPA[28] Guidelines further clarify the obligations of advertisers and endorsers while emphasising that disclosures and disclaimers cannot be used to legitimise deceptive claims. In addition, specialised laws administered by authorities such as the Food Safety and Standards Authority of India (FSSAI) regulate health and nutrition claims relating to food products and dietary supplements, while legislation governing drugs and cosmetics seeks to prevent therapeutic claims that lack adequate scientific evidence.

The significance of this multi-layered framework becomes particularly evident in the digital health and beauty industry. A skincare serum claiming to "repair DNA damage," a collagen supplement promising to "reverse ageing," or a detox drink marketed as a solution for hormonal imbalance may simultaneously raise issues under consumer protection law, food regulation, cosmetic regulation, and advertising standards. Consequently, determining legality requires a holistic examination of multiple regulatory instruments rather than reliance upon a single statute.

Despite the existence of these laws, enforcement remains a significant challenge. The speed with which misleading content spreads across digital platforms frequently exceeds the pace of

[28]Central Consumer Protection Authority, official notification.

regulatory intervention. Moreover, uncertainty continues regarding the precise responsibilities of creators, brands, advertising agencies, and digital platforms within the promotional ecosystem. While existing legislation provides important safeguards, the rapid evolution of influencer marketing requires continuous adaptation of regulatory principles to ensure that consumer protection remains effective in an increasingly digital marketplace.

Against this background, it becomes necessary to examine each component of India's regulatory framework individually in order to understand how existing law addresses misleading health and beauty claims and whether it adequately responds to the realities of influencer-driven advertising.

1. The Consumer Protection Act, 2019: The Cornerstone of Influencer Accountability

The emergence of influencer marketing has challenged the conventional understanding of advertising under Indian consumer law. Traditionally, advertisements were disseminated through newspapers, television channels, magazines, and radio, where the identities of the manufacturer, advertiser, publisher, and endorser were clearly distinguishable. The digital economy, however, has blurred these distinctions. Today, advertisements are frequently delivered through creators who present promotional content as personal opinions, lifestyle choices, or everyday experiences. Consequently, determining legal liability requires the law to look beyond the form of communication and instead examine its commercial substance.

The Consumer Protection Act, 2019 ("CPA") represents India's most comprehensive legislation for protecting consumers against unfair trade practices and misleading advertisements. Enacted to replace the Consumer Protection Act, 1986, the legislation reflects a conscious legislative attempt to modernise consumer law in response to the rapid growth of e-commerce, digital transactions, and online advertising. Although the Act does not expressly refer to "influencers" or "content creators," its broad definitions and consumer-centric approach make it sufficiently flexible to regulate digital endorsements that mislead consumers.

The Consumer's Right to Truthful Information

At the heart of the Consumer Protection Act lies the principle that consumers are entitled to make informed choices. This principle recognises that a consumer's decision is only as reliable as the information on which it is based. Where advertisements contain false, exaggerated, incomplete, or misleading representations, the consumer's freedom of choice becomes illusory. The law therefore treats misleading advertisements not merely as unethical business practices but as violations of consumer rights.

This principle assumes even greater importance in the health and beauty sector. Consumers purchasing a lipstick or perfume may primarily consider aesthetic preferences. However, products such as sunscreens, collagen supplements, herbal medicines, protein powders, anti-ageing serums, nutritional gummies, probiotics, or hormonal wellness products directly influence decisions relating to physical health and well-being. In such cases, misleading claims may extend beyond economic loss and expose consumers to medical risks, delayed treatment, unnecessary expenditure, or psychological harm resulting from unrealistic expectations.

Section 2(28): Understanding "Misleading Advertisement"

One of the most significant provisions of the Consumer Protection Act is Section 2(28), which defines a misleading advertisement. The definition deliberately adopts a broad approach. An advertisement may be regarded as misleading if it falsely describes a product or service, provides a false guarantee, misrepresents the nature, quality, quantity, composition, or usefulness of a product, or deliberately conceals material information likely to influence consumer decisions.

The significance of this provision lies in its emphasis on the overall impression created by an advertisement rather than isolated words or phrases. Modern influencer marketing rarely depends upon blatant falsehoods. Instead, it frequently relies on carefully crafted narratives capable of creating unrealistic expectations without making explicit promises. For instance, a creator may never expressly state that a serum "cures acne," yet repeatedly display dramatic before-and-after photographs, describe the product as a "miracle solution," and suggest that visible improvements occurred within a week. Even if every statement is technically framed as a personal experience, the cumulative impression may still mislead an ordinary consumer.

This broader interpretation is particularly relevant because social media advertising relies heavily upon visual persuasion. Filters, artificial lighting, image editing, AI-enhanced videos, selective camera angles, and sponsored testimonials may create unrealistic expectations regarding a product's effectiveness. The law therefore cannot restrict itself to identifying literal falsehoods; it must also evaluate whether the advertisement, viewed as a whole, is likely to deceive an average consumer acting reasonably.

Influencers as Modern Endorsers

Perhaps the most significant contribution of the Consumer Protection Act lies in its ability to accommodate the changing nature of commercial endorsements. Historically, the term "endorser" was commonly associated with film actors, athletes, and celebrities appearing in television commercials. The digital economy has fundamentally transformed this understanding.

Today, a dermatologist with one lakh followers, a fitness coach, a beauty influencer, or even a micro-creator specialising in skincare may exercise greater influence over consumer behaviour than a nationally recognised celebrity. Their recommendations are perceived as authentic because they appear to arise from personal experience rather than contractual advertising obligations. Nevertheless, once a creator receives monetary consideration, complimentary products, affiliate commissions, sponsorship fees, or any other commercial benefit in exchange for promoting a product, the communication acquires a commercial character irrespective of its informal presentation.

The Consumer Protection Act does not regulate advertisements based upon the popularity of the speaker. Instead, it regulates communications that influence consumer decisions through misleading commercial representations. Consequently, influencer marketing comfortably falls within the broader objectives of consumer protection legislation.

Due Diligence: Can Influencers Simply Trust the Brand?

One of the most debated questions in contemporary advertising law concerns the extent of responsibility that should be imposed upon digital creators. Influencers frequently argue that they merely communicate information supplied by manufacturers or marketing agencies and therefore should not be held responsible if those claims subsequently prove inaccurate.

Although this argument appears commercially convenient, it becomes difficult to justify from the perspective of consumer protection. When creators voluntarily accept financial benefits for endorsing products, they also assume certain responsibilities towards the consumers who rely upon their recommendations. The concept of due diligence therefore becomes central to influencer accountability.

Due diligence does not require creators to conduct laboratory experiments or independent clinical trials. However, it reasonably expects them to verify whether objective claims concerning efficacy, safety, therapeutic benefits, or scientific performance are supported by credible evidence before communicating them to consumers. A creator promoting a moisturiser may honestly describe its texture or fragrance based upon personal experience. The legal position changes, however, when the same creator asserts that the product repairs DNA damage, reverses skin ageing, eliminates pigmentation permanently, or clinically treats acne. These statements are no longer subjective opinions; they are objective representations capable of scientific verification.

Freedom of Expression versus Commercial Speech

Some commentators argue that imposing legal liability upon digital creators may discourage free expression and honest product reviews. This concern deserves careful consideration because social media has become an important platform for sharing consumer experiences and exposing defective products.

However, constitutional protection of free speech cannot be equated with unrestricted freedom to disseminate misleading commercial representations. Indian constitutional jurisprudence has consistently recognised that commercial speech enjoys protection but remains subject to reasonable regulation in the public interest. The distinction therefore lies between genuine consumer opinion and commercial endorsement.

An independent creator who honestly shares a personal experience without commercial consideration occupies a fundamentally different position from an influencer who receives financial compensation for promoting a product while presenting advertising as personal advice. The former primarily exercises freedom of expression; the latter participates in commercial communication capable of influencing market behaviour. Accordingly, imposing transparency and due diligence obligations upon paid endorsements does not undermine free speech but strengthens consumer confidence in digital marketplaces.

Critical Evaluation of the Consumer Protection Act

Despite its progressive approach, the Consumer Protection Act leaves several important questions unanswered. The legislation does not expressly define digital creators, influencer marketing, affiliate advertising, algorithmic promotion, AI-generated endorsements, or virtual influencers. These concepts have emerged far more rapidly than legislative reform, leaving regulators and courts to interpret traditional statutory language within entirely new technological contexts.

Furthermore, the Act provides limited guidance regarding the allocation of liability among manufacturers, creators, influencer management agencies, advertising agencies, and digital platforms. Where a misleading advertisement results from collective decision-making involving multiple commercial actors, determining individual responsibility becomes considerably more difficult.

Another challenge concerns enforcement. The viral nature of social media enables misleading content to reach millions of consumers within hours, whereas regulatory investigations often require weeks or months. By the time corrective action is taken, the advertisement may have already achieved its commercial objective. This mismatch between technological speed and legal enforcement remains one of the most significant weaknesses of contemporary consumer protection.

Nevertheless, the Consumer Protection Act, 2019 provides the strongest statutory foundation for regulating misleading digital endorsements in India. Its broad interpretation of misleading advertisements, emphasis on consumer welfare, and recognition of commercial accountability enable the legislation to respond effectively to evolving forms of digital marketing. The Central Consumer Protection Authority has shown that these statutory powers are not merely theoretical: government data indicates that the CCPA has issued hundreds of notices and imposed penalties exceeding one crore rupees for violations relating to misleading advertisements and unfair trade practices, illustrating that the enforcement architecture created under the 2019 Act is already operative rather than aspirational.[29] However, recognising that statutory provisions alone were insufficient to address the growing complexity of influencer advertising, the Central Consumer Protection Authority introduced the Consumer Protection (Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements) Guidelines, 2022. These Guidelines represent the next major step in transforming general consumer protection principles into specific compliance standards for advertisers, endorsers, and increasingly, digital creators.

2. Consumer Protection (Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements) Guidelines, 2022: A Paradigm Shift in Influencer Regulation

The enactment of the Consumer Protection Act, 2019 provided a statutory basis for regulating misleading advertisements, but the rapid evolution of digital marketing soon revealed that broad legislative provisions alone were insufficient to address the complexities of influencer-driven advertising. Social media advertisements were fundamentally different from traditional commercial campaigns. Promotional content was increasingly disguised as personal experiences, product reviews, lifestyle advice, or educational content, making it difficult for consumers to recognise when they were being subjected to commercial persuasion. It was against this backdrop that the Central Consumer Protection Authority (CCPA) introduced the Consumer Protection (Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements) Guidelines, 2022.

The Guidelines represent a significant turning point in Indian consumer protection law. Rather than merely prohibiting false advertisements, they seek to establish a culture of accountability among everyone involved in the advertising ecosystem, including manufacturers, advertisers, advertising agencies, publishers, endorsers, and, by implication, digital creators who commercially promote products through online platforms. Their objective is not simply to punish misleading

[29]Press Information Bureau, Government of India, 'Central Consumer Protection Authority Issues 325 Notices for Violation of Consumer Rights, Misleading Advertisements and Unfair Trade Practices Imposing Penalties Amounting to Rs 1.19 Crore' (PIB, 18 December 2024) <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2085748> accessed 29 July 2026.

advertisements after consumer harm has occurred but to prevent deceptive commercial communication before it reaches the public.

Moving Beyond Literal Falsehoods

One of the most progressive aspects of the 2022 Guidelines is that they recognise deception as something much broader than an outright lie. Modern advertising rarely relies upon direct false statements. Instead, marketers often create misleading impressions through selective disclosure, exaggerated demonstrations, manipulated visuals, dramatic testimonials, or incomplete scientific information.

This approach is particularly relevant in influencer marketing. A beauty creator may never expressly claim that a serum "cures pigmentation," yet a carefully edited reel showing dramatic before-and-after photographs, emotional storytelling, and captions such as "my skin completely transformed in two weeks" may create precisely that impression. Similarly, a wellness influencer repeatedly using expressions such as "doctor recommended," "clinically proven," "scientifically tested," "medical-grade," "DNA repair technology," or "100% guaranteed results" may lead consumers to believe that the product possesses scientifically established benefits even where no reliable evidence exists.

The Guidelines therefore adopt a substance-over-form approach. What matters is not merely the wording of the advertisement but the overall impression likely to be created in the mind of an ordinary consumer. This represents a major evolution in Indian advertising regulation because it acknowledges the persuasive techniques commonly employed in digital content creation.

The Myth of the Protective Disclaimer

One of the most common practices in influencer marketing is the use of disclaimers such as "results may vary," "based on my personal experience," "consult your doctor," or "not medical advice." These statements are frequently added after creators make bold promotional claims regarding health or beauty products.

The 2022 Guidelines make it abundantly clear that a disclaimer cannot be used as a legal shield to cure an otherwise misleading advertisement. A disclaimer must not contradict the principal message of the advertisement, conceal material information, or neutralise an exaggerated claim. If the dominant impression conveyed to consumers is misleading, the existence of a disclaimer cannot transform an unlawful advertisement into a lawful one.

This principle has particular significance in the health and beauty industry. A creator cannot claim that a collagen supplement "reverses ageing" and subsequently avoid responsibility by adding "results may vary" in small text. Similarly, stating that a skincare product is "clinically proven to eliminate acne" cannot be justified merely by adding "consult a dermatologist" at the end of the video. Consumer law evaluates the advertisement as a whole, not isolated fragments inserted to minimise legal risk.

Due Diligence: A Positive Duty upon Endorsers

Perhaps the most transformative feature of the Guidelines is the emphasis on due diligence. They reject the traditional assumption that endorsers merely repeat the claims supplied by manufacturers. Instead, they recognise that endorsers significantly influence consumer behaviour and therefore bear an independent responsibility to ensure that the claims they communicate are capable of substantiation.

For digital creators, this marks a fundamental change in legal expectations. Influencers can no longer rely solely on the defence that "the brand gave me the script" or "I simply read the marketing brief." Where a creator voluntarily accepts payment, sponsorship, affiliate commissions, free products, or other commercial benefits in exchange for promoting a product, a corresponding obligation arises to exercise reasonable care before communicating objective claims concerning efficacy, safety, or health benefits.

The requirement of due diligence should not be interpreted as imposing an impossible burden. The law does not expect influencers to conduct laboratory testing or clinical trials. However, it reasonably expects them to seek adequate substantiation from the advertiser before promoting measurable claims such as "clinically proven SPF protection," "boosts immunity," "reduces hair fall by 90%," "repairs DNA damage," or "improves collagen production." Where such evidence cannot be produced, the claim itself should not be communicated to consumers.

Endorsers in the Age of the Creator Economy

Although the Guidelines frequently use the expression "endorser," they were drafted at a time when influencer marketing had already become a dominant advertising model. Consequently, the concept of an endorser can no longer be confined to film stars or sporting personalities. Today, a skincare creator with a highly engaged niche audience may influence consumer behaviour more effectively than a celebrity appearing in a television commercial.

This changing commercial reality requires a broader interpretation of endorsement. Digital creators function as commercial intermediaries who convert consumer trust into purchasing decisions. Their recommendations frequently determine whether a consumer purchases a sunscreen, dietary supplement, cosmetic treatment, or wellness product. From a regulatory perspective, there is little justification for imposing strict legal duties upon celebrities while exempting creators who perform substantially similar commercial functions.

Challenges in Practical Enforcement

Despite their progressive nature, the 2022 Guidelines face several practical limitations. The first challenge concerns scale. India has millions of content creators producing promotional material across multiple digital platforms every day. Monitoring every sponsored reel, short video, livestream, or affiliate post is practically impossible. Regulatory authorities are therefore compelled to focus primarily on complaints or high-profile cases, leaving countless misleading endorsements beyond immediate scrutiny.

Secondly, determining whether a creator has exercised adequate due diligence remains inherently subjective. Should reviewing the scientific literature be sufficient? Must creators obtain documentary proof from manufacturers? Should they consult independent experts before endorsing health products? The Guidelines do not provide detailed answers to these questions, leaving substantial discretion to regulators and adjudicating authorities.

A further challenge arises from cross-border digital marketing. Many creators promote foreign supplements, cosmetics, and wellness products manufactured outside India but marketed through Indian social media platforms. In such situations, obtaining evidence regarding scientific substantiation, manufacturing standards, or regulatory approvals becomes significantly more difficult, thereby complicating enforcement under domestic consumer protection law.

Critical Analysis

The 2022 Guidelines represent one of the most significant regulatory developments in Indian advertising law because they acknowledge that the digital marketplace demands greater transparency and accountability than traditional advertising models. However, they also illustrate the continuing gap between technological innovation and legal regulation. Influencer marketing is increasingly driven by AI-generated content, virtual influencers, algorithmic recommendations, affiliate networks, and cross-platform advertising ecosystems, developments that were only beginning to emerge when the Guidelines were framed.

Consequently, while the Guidelines establish important principles concerning truthful advertising, substantiation, and due diligence, future reforms must provide greater clarity regarding influencer liability, platform responsibility, AI-generated endorsements, and evidence verification. Without such reforms, enforcement will continue to depend largely upon case-by-case interpretation rather than predictable legal standards.

The introduction of the 2022 Guidelines nevertheless marks a decisive shift in Indian consumer protection policy. They make it increasingly clear that commercial success in the creator economy cannot be separated from legal responsibility. A creator who profits from consumer trust must equally bear responsibility for ensuring that such trust is not exploited through misleading health and beauty claims. However, statutory regulation alone cannot fully govern influencer behaviour. This explains the growing importance of industry self-regulation through the Advertising Standards Council of India (ASCI), whose influencer guidelines have become an integral part of India's evolving digital advertising framework.

3. The Advertising Standards Council of India (ASCI): Self-Regulation or an Effective Mechanism for Influencer Accountability?

While the Consumer Protection Act, 2019 and the CCPA Guidelines constitute the statutory framework governing misleading advertisements in India, the practical regulation of influencer marketing has been significantly shaped by the Advertising Standards Council of India (ASCI). Established in 1985 as a voluntary self-regulatory organisation, ASCI was originally created to promote responsible advertising and maintain public confidence in commercial communication. However, the unprecedented growth of social media has expanded its role far beyond conventional advertising. Today, ASCI occupies a central position in India's efforts to regulate influencer marketing, particularly in sectors such as health, beauty, nutrition, wellness, and personal care, where misleading claims may directly affect consumer welfare.

Unlike statutory authorities, ASCI does not possess the power to impose criminal sanctions or financial penalties. Its authority primarily derives from industry participation, public credibility, and voluntary compliance by advertisers, agencies, broadcasters, and digital platforms. At first glance, this may appear to be a limitation. However, in the rapidly evolving digital environment, self-regulation often operates more swiftly than formal legal proceedings. While litigation and regulatory investigations may take months, ASCI complaints can result in prompt review and recommendations, thereby reducing the circulation of misleading advertisements before they cause widespread consumer harm.

The Emergence of Influencer Advertising Guidelines

The increasing popularity of influencer marketing exposed a significant regulatory gap. Consumers frequently encountered promotional content without realising that the creator had received payment, complimentary products, affiliate commissions, or other commercial benefits. Sponsored advertisements were intentionally designed to resemble independent reviews, making it difficult to distinguish genuine opinion from paid endorsement.

Recognising this challenge, ASCI introduced the Guidelines for Influencer Advertising in Digital Media. These Guidelines require creators to make clear and prominent disclosures whenever there is a material connection between the creator and the advertiser. Expressions such as #Ad, #Sponsored, #Collaboration, #PaidPartnership, or other equivalent disclosures must be easily visible and understandable to an ordinary consumer. The disclosure should neither be hidden among numerous hashtags nor placed where viewers are unlikely to notice it.

The underlying principle is straightforward. Transparency enables consumers to evaluate recommendations with appropriate caution. When audiences are informed that content constitutes advertising, they are better positioned to distinguish commercial persuasion from independent consumer opinion. Thus, disclosure is not merely a procedural requirement but an essential component of informed consumer choice.

Transparency Alone Does Not Prevent Misleading Claims

Although disclosure improves transparency, it does not necessarily guarantee truthfulness. A sponsored advertisement openly labelled as #Ad may still contain exaggerated, misleading, or scientifically unsubstantiated claims. Consequently, disclosure cannot be regarded as a substitute for accuracy.

This distinction is particularly significant in the health and beauty sector. A creator may openly disclose that a skincare reel is sponsored while simultaneously claiming that the promoted serum "clinically repairs DNA damage," "eliminates acne permanently," "boosts collagen production," "reverses skin ageing," or "provides complete sun protection." Even where commercial intent is transparently disclosed, consumers remain vulnerable if the substantive claims themselves lack adequate scientific support.

ASCI therefore extends beyond disclosure obligations by requiring advertisements to comply with general principles of honesty, fairness, and substantiation. Influencers are expected to satisfy themselves that objective claims made in advertisements are capable of being supported by evidence supplied by the advertiser. Although this expectation falls short of requiring independent scientific verification, it establishes an important culture of commercial responsibility within the creator economy.

Health and Nutrition Influencers: A Higher Standard of Responsibility

Perhaps the most significant recent development in influencer regulation is ASCI's decision to impose enhanced obligations upon creators providing health and nutrition advice. Recognising that consumers frequently treat such creators as experts rather than entertainers, ASCI introduced additional requirements concerning professional qualifications. Under these standards, creators who provide health or nutrition advice while promoting related products or services are expected to possess relevant educational or professional qualifications and disclose those qualifications to their audiences. This development reflects an important policy shift. It acknowledges that health-related communication cannot be treated in the same manner as ordinary lifestyle content because consumers may rely upon such advice when making decisions affecting their physical well-being. This standard was formalised through Addendum 2 to the ASCI Guidelines for Influencer Advertising in Digital Media, issued on 7 April 2025, which requires influencers offering technical advice in the health and nutrition sector to hold and disclose relevant credentials, such as a medical degree or certification as a nutritionist, dietician, physiotherapist, psychologist, or nurse, depending on the nature of the advice given, while generic or public-service style content continues to be exempt from this requirement.[30]

The importance of this distinction became increasingly evident following public controversies involving dietary supplements, immunity-boosting products, herbal medicines, protein powders, and wellness drinks. Many creators presented themselves as authorities on medical or nutritional subjects despite lacking any recognised professional expertise. ASCI's approach seeks to reduce this risk by encouraging greater transparency regarding the competence of those offering health-related recommendations.

The Strengths of Self-Regulation

One of ASCI's greatest strengths lies in its flexibility. Unlike statutory legislation, which often requires lengthy parliamentary processes before amendment, self-regulatory standards can be revised comparatively quickly in response to emerging advertising practices. This adaptability is particularly valuable in the digital economy, where new forms of content, including livestream shopping, AI-generated advertisements, virtual influencers, augmented reality product demonstrations, and social commerce, continue to evolve at an extraordinary pace.

Another advantage is educational rather than punitive. ASCI encourages advertisers and creators to adopt responsible marketing practices before violations occur. Through awareness campaigns, compliance guidance, and advisory opinions, it seeks to improve advertising standards without relying exclusively upon sanctions. This preventive approach complements the enforcement powers exercised by statutory authorities.

Limitations of the ASCI Framework

Despite its significant contributions, ASCI's regulatory model is not without limitations. The foremost criticism concerns its voluntary nature. Since ASCI functions primarily through self-regulation, its recommendations depend substantially upon the willingness of advertisers and creators to comply. Although many reputable brands cooperate with ASCI, smaller businesses, overseas entities, and individual creators may simply ignore its recommendations, particularly where immediate commercial gains outweigh reputational concerns.

[30] Advertising Standards Council of India, 'Guidelines for Influencer Advertising in Digital Media, Addendum 2' (7 April 2025), discussed in Bhavishya Vij, 'ASCI Update to Influencer Advertising Guidelines: Qualification Mandatory for Making Claims Related to Technical Aspects of Health, Nutrition and Finance' (Lexology, 5 May 2025) <https://www.lexology.com/library/detail.aspx?g=eb106940-efd6-406e-8073-909ff572f8af> accessed 29 July 2026.

Another practical difficulty arises from the enormous scale of India's creator economy. Millions of promotional posts are uploaded daily across multiple platforms. Monitoring every sponsored video, livestream, affiliate link, and product review is virtually impossible. Consequently, enforcement often remains reactive, relying upon consumer complaints or media attention rather than proactive monitoring.

Furthermore, ASCI currently lacks direct authority over platform algorithms. Even if misleading content is identified and modified, algorithmic recommendation systems may already have amplified that content to millions of users. The speed of digital dissemination frequently exceeds the speed of voluntary corrective action, reducing the practical effectiveness of self-regulation.

ASCI has unquestionably played a transformative role in shaping ethical standards for influencer marketing in India. Its guidelines have normalised disclosure practices, encouraged greater transparency, and promoted the principle that commercial influence must be exercised responsibly. Nevertheless, the rapid commercialisation of the creator economy raises an important question: Can voluntary self-regulation alone adequately protect consumers in an industry worth billions of rupees?

The answer appears increasingly uncertain. As influencer marketing becomes more sophisticated through affiliate commerce, AI-generated content, virtual influencers, and cross-border digital campaigns, reliance solely upon voluntary compliance may prove inadequate. Self-regulation performs an essential preventive function, but it cannot entirely replace statutory enforcement where public health and consumer safety are concerned.

Accordingly, ASCI should be viewed not as an alternative to consumer protection legislation but as a complementary mechanism. Its greatest contribution lies in cultivating ethical advertising practices, whereas statutory authorities remain indispensable for investigating serious violations, imposing penalties, and ensuring legal accountability. The future of influencer regulation in India is therefore likely to depend upon a collaborative model in which statutory regulation and self-regulation operate together to protect consumers in an increasingly complex digital marketplace.

4. Food Safety and Standards Authority of India (FSSAI): Regulating Health Claims in the Era of Digital Influencers

The health and beauty industry has undergone a significant transformation over the past decade. Traditional cosmetics are increasingly being replaced by products that promise benefits extending beyond physical appearance. Collagen powders claim to improve skin elasticity, probiotic supplements promise clearer skin through better gut health, protein drinks are marketed as essential for fitness, gummies claim to improve hair growth, detox beverages promise to eliminate toxins, and herbal supplements frequently advertise hormonal balance, improved metabolism, stronger immunity, and anti-ageing benefits. These products occupy a unique position because they are often marketed not merely as food but as solutions capable of improving health and physical appearance simultaneously.

This overlap between nutrition, wellness, and beauty has created substantial legal challenges. Consumers frequently struggle to distinguish between scientifically established health benefits and exaggerated marketing claims. Influencers further complicate this landscape by presenting promotional statements as personal experiences rather than commercial advertisements.

Consequently, the regulation of health claims has become one of the most important responsibilities of the Food Safety and Standards Authority of India (FSSAI).

Unlike ordinary advertising law, which primarily focuses on preventing deceptive commercial practices, the FSSAI framework emphasises scientific substantiation. It recognises that health-related claims influence decisions affecting the human body and therefore require a much higher evidentiary standard than ordinary promotional language.

Health Claims Must Be Supported by Scientific Evidence

One of the fundamental principles underlying the Food Safety and Standards (Advertising and Claims) Regulations, 2018 is that health claims should never be based merely upon marketing creativity or anecdotal experience. Every claim suggesting that a food or nutraceutical improves health, reduces disease risk, enhances bodily functions, or produces measurable physiological benefits should be supported by credible scientific evidence.

This requirement is particularly relevant in influencer marketing. Digital creators frequently describe products using expressions such as "clinically proven," "doctor recommended," "boosts immunity," "repairs the gut," "balances hormones," "improves fertility," "burns fat naturally," "accelerates metabolism," "reverses ageing," "repairs DNA damage," "stimulates collagen production," or "heals inflammation from within." Such statements are presented with confidence, often accompanied by dramatic transformation videos or before-and-after photographs, creating the impression that the product's effectiveness has been scientifically established.

However, under the FSSAI regulatory framework, merely repeating these claims does not make them legally acceptable. Scientific representations require scientific proof. If adequate substantiation cannot be produced, the claim itself becomes legally questionable irrespective of its popularity on social media.

Personal Experience Cannot Replace Scientific Evidence

One of the most common arguments advanced by influencers is that they are merely sharing their personal experiences. Statements such as "this worked for me," "my skin completely changed," or "I lost weight after drinking this every day" are frequently used to avoid responsibility for promotional claims.

While personal experiences undoubtedly constitute a legitimate form of expression, they cannot replace objective scientific evidence when they are presented in a commercial context. Individual experiences are influenced by numerous variables, including genetics, diet, age, lifestyle, underlying medical conditions, medication, exercise, sleep patterns, environmental factors, and even placebo effects. A product that appears effective for one individual may produce entirely different outcomes for another.

The difficulty arises when creators convert subjective experiences into universal promises. A statement such as "I personally enjoyed using this moisturiser" differs significantly from claiming that "this moisturiser clinically repairs the skin barrier in seven days" or "this supplement permanently cures hormonal acne." The latter are objective assertions capable of scientific verification and therefore attract a substantially higher legal standard.

The Rise of Beauty-from-Within Products

The Indian wellness market has witnessed remarkable growth in products commonly described as "beauty-from-within" solutions. Collagen powders, biotin supplements, glutathione tablets, marine collagen drinks, hyaluronic acid beverages, skin gummies, and nutraceutical formulations are increasingly promoted by influencers as alternatives to conventional skincare.

Many advertisements claim that these products improve skin elasticity, reduce wrinkles, brighten complexion, strengthen hair follicles, improve nail health, or stimulate collagen synthesis. Although certain ingredients may indeed possess scientifically recognised benefits under specific circumstances, marketing often exaggerates the certainty, speed, or universality of such outcomes.

Influencers frequently simplify complex scientific research into absolute promises such as "everyone needs collagen after the age of twenty-five," "this drink will reverse ageing," or "your skin will glow within ten days." Such claims ignore important scientific limitations, including dosage, nutritional deficiencies, individual metabolism, clinical evidence, and long-term safety.

The law therefore seeks to prevent consumers from confusing aspirational marketing with established medical science.

Social Media and the Spread of Health Misinformation

Digital platforms have dramatically increased the speed with which misleading health claims spread. Algorithms reward content that attracts attention, emotional reactions, and prolonged engagement. Consequently, sensational claims often receive significantly greater visibility than cautious, evidence-based discussions.

A reel claiming that "this detox tea melts stubborn belly fat overnight" is considerably more likely to become viral than a qualified explanation that sustainable weight management requires balanced nutrition, physical activity, and medical supervision. Similarly, a creator confidently declaring that a supplement "repairs your liver," "cures PCOS," or "eliminates insulin resistance naturally" may attract millions of views despite the absence of credible scientific evidence.

This phenomenon demonstrates that misinformation spreads not merely because creators make misleading claims but because platform architecture actively rewards certainty, simplicity, and sensationalism. Consequently, consumer protection today requires addressing both misleading content and the technological systems that amplify it.

The FSSAI regulatory framework establishes an important legal principle: health claims must be evidence-based rather than popularity-based. This principle is particularly significant in an era where social media algorithms often elevate persuasive storytelling above scientific accuracy.

Nevertheless, practical challenges remain. Many creators lack sufficient scientific literacy to distinguish between preliminary research, observational studies, laboratory findings, and clinically established evidence. Marketing agencies frequently simplify complex scientific literature into attractive promotional messages that creators reproduce without independent verification. Cross-border e-commerce further complicates regulation because numerous health supplements promoted on Indian social media platforms originate from foreign jurisdictions with different regulatory standards.

Moreover, current enforcement mechanisms continue to focus primarily on manufacturers rather than creators who substantially amplify misleading claims. As influencer marketing increasingly shapes consumer purchasing decisions, future regulatory reforms should clarify the extent to which digital creators share responsibility for ensuring that health-related representations are scientifically substantiated.

The regulation of health claims can therefore no longer remain confined to product manufacturers alone. In the digital marketplace, where creators frequently function as the primary source of consumer information, scientific accuracy must become a shared responsibility among brands, advertisers, influencers, and digital platforms. Only then can consumer trust be adequately protected against the growing commercialisation of health and beauty in the online environment.

5. The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 and the Drugs and Cosmetics Act, 1940: Drawing the Legal Boundary Between Beauty Promotion and Medical Claims

The modern beauty industry increasingly operates at the intersection of cosmetics, wellness, and healthcare. Products that were traditionally marketed only for improving appearance are now frequently promoted as solutions capable of treating, preventing, or reversing biological conditions. A skincare product is no longer simply described as a moisturiser; it is marketed as a "barrier repair treatment." A serum is not merely presented as improving appearance; it is claimed to "repair damaged skin cells," "reverse ageing," or "activate collagen." Hair products promise to "stop hair loss," supplements claim to "balance hormones," and wellness drinks advertise themselves as solutions for inflammation, immunity, or metabolic disorders.

This transformation has created a significant legal challenge: when does a beauty claim become a medical claim? The distinction is important because once a product enters the domain of disease prevention, treatment, or cure, it attracts a stricter regulatory framework. Indian law has historically attempted to maintain this boundary through statutes such as the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 (DMR Act) and the Drugs and Cosmetics Act, 1940 (D&C Act).

Although these laws were enacted long before the emergence of social media influencers, their underlying principles remain highly relevant in the digital age. The central objective of these legislations is to prevent consumers from being misled into believing that products possess therapeutic abilities that are unsupported by scientific evidence.

The Drugs and Magic Remedies Act, 1954: Preventing False Therapeutic Promises

The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 was introduced to control advertisements that make exaggerated or misleading claims regarding the diagnosis, treatment, prevention, or cure of diseases. The legislation reflects the principle that health-related decisions cannot be influenced by unsupported commercial promises because such misinformation may cause consumers to avoid appropriate medical treatment or spend money on ineffective remedies.

The relevance of this legislation has increased significantly with influencer marketing. Digital creators frequently promote products using language that resembles medical advice rather than ordinary advertising. Claims such as: "This cream permanently cures acne", "This serum removes pigmentation completely", "This supplement treats hormonal imbalance", "This drink reverses PCOS symptoms", "This oil regrows lost hair", "This tablet cures skin problems naturally" are not merely beauty-related opinions. They contain therapeutic implications because they suggest the ability to treat specific physical conditions. The legal concern arises because consumers often interpret such statements as expert guidance. A creator with millions of followers may possess significant persuasive influence even without medical qualifications. Therefore, the danger is not limited to the product itself but extends to the authority and credibility attached to the person making the recommendation. This danger is illustrated by the prolonged proceedings before the Supreme Court concerning Patanjali Ayurved, which began in 2022 on a petition by the Indian Medical Association alleging that advertisements for the company's products claimed to permanently cure conditions such as diabetes, asthma, and hypertension. In 2024, the Court repeatedly rebuked Patanjali and its promoters for continuing to publish such advertisements despite an earlier undertaking to the contrary, and it went so far as to broaden its concern to misleading health advertisements by fast-moving consumer goods companies generally, rather than treating the matter as confined to a single manufacturer.[31]

Editorial note: at the time this paper was drafted, the Patanjali proceedings discussed above were treated as an ongoing controversy. The matter has since moved on: the Supreme Court closed the misleading-advertisements case against Patanjali Ayurved in 2025, after the company complied with the Court's directions.[32]

The Problem of Medical Language in Beauty Marketing

One of the most challenging aspects of regulating digital beauty advertising is the increasing use of scientific and medical terminology. Modern marketing frequently relies upon technical expressions that create an impression of clinical authority.

Terms such as "dermatologically tested," "clinically proven," "medical-grade skincare," "doctor formulated," "DNA repair technology," "cell regeneration," "anti-inflammatory formula," and "skin healing technology" are commonly used to increase consumer confidence.

However, such terminology may create a misleading perception if consumers interpret it as equivalent to medical approval or guaranteed effectiveness. A product being tested does not necessarily mean that it has achieved clinically significant results. A formula developed with scientific ingredients does not automatically mean it can treat a medical condition. Similarly, a product associated with a doctor or dermatologist does not necessarily mean that it has received universal medical endorsement.

[31] Indian Medical Association v Patanjali Ayurved Ltd, discussed in 'SC Broadens Scope, Targets Misleading Advertisements by FMCG Giants, Not Just Patanjali Ayurved' (News on Air, 23 April 2024) <https://newsonair.gov.in/sc-broadens-scope-targets-misleading-advertisements-by-fmcg-giants-not-just-patanjali-ayurved> accessed 29 July 2026; Supreme Court Observer, 'Patanjali Contempt Case: Blatant Violations, Expanded Scope, Repeated Scoldings and the Flip-Flop on Rule 170' (14 May 2024) <https://www.scobserver.in/journal/patanjali-contempt-case-blatant-violations-expanded-scope-repeated-scoldings-and-the-flip-flip-on-rule-170/> accessed 29 July 2026.

[32] 'Supreme Court Closes Misleading-Ads Case Against Patanjali: A Turning Point in AYUSH Advertising' (Republic World, 12 August 2025) <https://www.republicworld.com/initiatives/supreme-court-closes-misleading-ads-case-against-patanjali-a-turning-point-in-ayush-advertising> accessed 29 July 2026.

The legal challenge therefore lies in preventing scientific terminology from becoming a marketing tool that creates a false impression of medical certainty.

The Drugs and Cosmetics Act, 1940: Regulation of Product Classification

The Drugs and Cosmetics Act, 1940 regulates the import, manufacture, distribution, and sale of drugs and cosmetics in India. One of its fundamental purposes is to ensure that products reaching consumers meet prescribed standards of quality, safety, and efficacy.

The difficulty in the digital beauty industry arises because the boundary between cosmetics and drugs is becoming increasingly unclear. A cosmetic product generally aims to cleanse, beautify, promote attractiveness, or alter appearance. A drug, however, is associated with diagnosis, treatment, mitigation, or prevention of disease.

This distinction becomes complicated when brands and influencers make claims that go beyond appearance enhancement. For example, a statement such as "this serum makes your skin appear brighter" is generally understood as a cosmetic claim. However, "this serum eliminates hyperpigmentation by correcting melanin production and permanently treats pigmentation disorders" moves towards a therapeutic representation. Similarly, "this shampoo improves hair texture and reduces breakage" differs significantly from "this shampoo cures hair loss by repairing damaged follicles." The second statement implies treatment of a biological condition and may attract stricter regulatory scrutiny.

Influencers and the Risk of Unqualified Medical Endorsements

A major concern in the creator economy is the increasing number of influencers presenting themselves as authorities on medical and scientific matters. Skincare creators often analyse ingredients, explain skin conditions, and recommend treatments without formal medical qualifications. While consumer education is valuable, the problem arises when educational content transforms into commercial advice.

The persuasive power of influencer recommendations creates a situation where followers may treat opinions as professional guidance. A creator stating that a product "will fix acne" or "will balance hormones" may unintentionally influence consumers to self-diagnose and self-treat medical conditions.

This is particularly concerning among young consumers who frequently rely on social media as their primary source of health information. Instead of consulting qualified professionals, they may purchase products based on viral recommendations and delay appropriate medical care.

The Challenge of Enforcement in the Digital Era

Although existing legislation provides protection against misleading medical claims, enforcement in the online environment remains complex. The DMR Act and D&C Act were created in a period when advertisements appeared mainly through controlled channels such as newspapers, television, and printed material. Digital platforms have fundamentally changed this environment.

Today, a misleading claim can originate from a brand advertisement, an influencer's personal account, an affiliate marketing link, a live-stream shopping session, an AI-generated testimonial, or a foreign brand targeting Indian consumers. Determining responsibility among these actors remains a major regulatory challenge.

Another difficulty is the speed of digital communication. A misleading health claim may reach millions of consumers before authorities are able to identify and examine it. Removing one post may also have limited impact because the same content may already exist through screenshots, reposts, and multiple platforms.

Need for a Unified Digital Health Claim Framework

The DMR Act and Drugs and Cosmetics Act provide important safeguards, but their effectiveness in the influencer era is limited by the absence of specific provisions addressing digital creators. Current regulation remains fragmented, with different authorities overseeing different aspects of health and beauty claims.

A more effective approach would require a unified framework that clearly defines when a cosmetic claim becomes a therapeutic claim, the responsibility of influencers making health-related statements, evidence requirements for scientific terminology, accountability of brands supplying misleading promotional material, and the responsibility of platforms amplifying deceptive health content.

The future of regulation cannot depend only upon controlling manufacturers. In the digital economy, creators have become powerful intermediaries between products and consumers. When they communicate medical-sounding claims to large audiences, they participate in shaping health decisions and therefore must also participate in maintaining accuracy.

The central principle emerging from Indian regulatory developments is clear: beauty marketing cannot escape medical accountability merely by changing its language. A product does not become a simple cosmetic claim merely because therapeutic promises are expressed through influencer storytelling. Where commercial speech affects consumer health choices, scientific responsibility must accompany promotional influence.

6. Digital Platforms, Algorithms and Intermediary Liability: Should Social Media Platforms Be Responsible for Amplifying Misleading Health and Beauty Claims?

The regulation of misleading health and beauty claims in the digital era cannot be limited to creators and brands alone. Social media platforms have transformed from passive communication channels into active participants in shaping consumer behaviour. Platforms such as Instagram, YouTube, Facebook, and other digital marketplaces do not merely host content; their algorithms determine visibility, engagement, and commercial success. Content that generates greater interaction is frequently promoted to larger audiences, creating an environment where sensational health claims and unrealistic beauty promises can spread rapidly. This technological transformation raises a fundamental question for contemporary consumer protection law: should digital platforms be treated merely as neutral intermediaries, or should they bear responsibility when their systems amplify misleading commercial content?

The issue becomes particularly significant in the health and beauty sector. A misleading claim about a fashion product may result in financial loss, but a misleading claim regarding supplements, skincare treatments, weight-loss products, hormonal remedies, or cosmetic procedures may influence personal health decisions. When algorithms repeatedly recommend such content to vulnerable consumers, the platform's role extends beyond simple hosting and enters the domain of content amplification.

From Passive Hosts to Active Digital Gatekeepers

Traditionally, internet platforms have argued that they function only as intermediaries. Their role, according to this argument, is limited to providing infrastructure that allows users to upload and share content. Since millions of posts are uploaded every day, platforms claim that imposing responsibility for every piece of content would be practically impossible. However, modern platforms operate differently from traditional publishers. They use complex algorithmic systems to analyse user behaviour, predict interests, recommend content, and maximise engagement. In doing so, platforms actively influence what consumers see and what information receives greater visibility. For example, a carefully researched dermatologist explaining the limitations of a skincare ingredient may receive limited reach, while a creator claiming that a "miracle serum removed acne in seven days" may become viral because such content generates stronger emotional reactions and higher engagement. The algorithm does not necessarily distinguish between scientifically accurate information and commercially attractive misinformation; it primarily rewards user interaction. This creates a regulatory challenge because the harm does not arise only from the original misleading claim but also from the technological systems that accelerate its distribution.

The Information Technology Act and Intermediary Protection

The legal position of online platforms in India has historically been influenced by the Information Technology Act, 2000, particularly the intermediary protection framework under Section 79. The provision provides conditional immunity to intermediaries for third-party information, subject to compliance with prescribed requirements. The rationale behind intermediary protection is practical. Without such protection, platforms hosting user-generated content could face unlimited liability for every piece of information uploaded by millions of users. Such a system could restrict innovation and create excessive censorship. However, intermediary protection is not absolute. Platforms are expected to follow due diligence obligations and comply with applicable legal requirements. The question therefore arises: when does a platform move beyond merely hosting content and become responsible for actively promoting or monetising misleading advertisements? This distinction is increasingly important in influencer marketing. A platform that simply allows a creator to upload a video may occupy a different legal position from a platform that recommends the same video through targeted algorithms, promotes it through advertisements, enables affiliate commerce, or financially benefits from increased engagement.

Information Technology Rules, 2021 and Due Diligence Obligations

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 strengthened the due diligence obligations applicable to intermediaries operating in India. The Rules distinguish ordinary social media intermediaries from "significant social media intermediaries," a category defined by a government notification that fixed the threshold at five million registered users in India; platforms crossing this threshold, which in practice includes every major platform used for health and beauty influencer marketing, are subject to the enhanced due diligence obligations described below.[33] The Rules require significant social media intermediaries to establish grievance redressal mechanisms, publish compliance information, and undertake reasonable efforts to ensure compliance with legal obligations. Although these Rules do not specifically regulate influencer advertising or health claims, their broader framework contributes to the discussion of platform responsibility. Digital platforms increasingly possess the technological capability to identify patterns of misleading commercial behaviour through artificial intelligence, content moderation systems, user reporting mechanisms, and advertising review processes. The question is therefore not whether platforms are capable of intervention but whether they should have greater legal obligations to prevent consumer harm.

Algorithmic Amplification as a New Form of Commercial Influence

One of the most significant developments in digital advertising is the role of algorithms in determining consumer exposure. Unlike traditional advertisements, where consumers actively encounter promotional material through identifiable channels, algorithmic platforms predict consumer interests and repeatedly deliver targeted content. This creates a new form of influence. A consumer who watches one video about acne treatment may subsequently receive dozens of recommendations promoting skincare products, supplements, and cosmetic procedures. The platform effectively creates a personalised commercial environment based on the user's interests, insecurities, and online behaviour. In the health and beauty sector, this can create heightened vulnerability. Consumers experiencing concerns regarding acne, ageing, weight, hair loss, or body image may become targets for repeated exposure to exaggerated claims. The issue is therefore not only whether a single advertisement is misleading but whether algorithmic systems create conditions where misleading claims become unavoidable and continuously reinforced.

AI-Generated Content and the Future of Digital Misinformation

The emergence of artificial intelligence has introduced additional complexity into influencer advertising. Brands increasingly use AI tools to generate promotional scripts, virtual influencers, synthetic testimonials, enhanced product demonstrations, and personalised advertisements.

AI-generated visuals can create unrealistic expectations by modifying skin texture, body appearance, hair density, or transformation results. A consumer may believe that a product produced a particular outcome when the visual representation was actually digitally enhanced.

Similarly, AI-generated virtual influencers may promote health and beauty products without any real individual experience behind the recommendation. This challenges traditional assumptions regarding endorsements because the emotional trust associated with human creators can now be simulated through technology. Existing consumer protection laws are not specifically designed to address these emerging forms of synthetic advertising. Therefore, future regulatory frameworks must consider not only who makes a claim but also how technology contributes to creating and amplifying that claim.

[33] Ministry of Electronics and Information Technology, Notification on Threshold for Significant Social Media Intermediaries (25 February 2021), reported in 'Threshold for Significant Social Media Intermediaries Set at 5 Million Registered Indian Users' (MediaNama, 26 February 2021) <https://www.medianama.com/2021/02/223-significant-social-media-intermediaries-5-million-3/> accessed 29 July 2026.

Should Platforms Bear Greater Responsibility?

The argument for increased platform accountability is based on the principle that technological power should correspond with technological responsibility. When platforms possess the ability to identify trends, monitor advertisements, detect prohibited content, and control recommendation systems, complete immunity may no longer reflect the realities of the digital economy. However, imposing unlimited liability upon platforms also creates concerns. Excessive regulation may encourage over-removal of lawful speech, restrict genuine consumer reviews, and create burdens that smaller platforms cannot realistically manage. The appropriate approach may therefore involve a balanced responsibility model. Platforms should not be treated as publishers of every user-generated statement, but they should undertake greater obligations where they actively promote, monetise, or algorithmically amplify commercial content capable of harming consumers.

Towards Shared Digital Accountability

The future of consumer protection in the digital age requires a shift from individual responsibility to ecosystem responsibility. Misleading health and beauty claims are rarely created by a single actor. They emerge from a network involving brands seeking sales, agencies designing campaigns, creators building trust, and platforms amplifying engagement.

Accordingly, accountability should also be distributed across this ecosystem. Brands must substantiate claims, creators must exercise due diligence, agencies must ensure ethical campaigns, and platforms must develop stronger systems to identify and limit harmful commercial misinformation. The challenge before Indian law is therefore not simply controlling misleading advertisements but regulating the technological environment that allows such advertisements to achieve extraordinary reach. In the age of algorithms and artificial intelligence, consumer protection cannot stop at the question "Who made the claim?" It must also ask "Who amplified it, who benefited from it, and who had the ability to prevent consumer harm?" Only through such a comprehensive approach can India effectively regulate misleading health and beauty claims in an increasingly digital marketplace.

Regulatory Gaps and the Need for Reform: Towards a Dedicated Influencer Accountability Framework in India

The existing Indian legal framework demonstrates a clear movement towards greater accountability in digital advertising. The Consumer Protection Act, 2019, CCPA Guidelines on Misleading Advertisements, ASCI Influencer Guidelines, FSSAI regulations, and sector-specific laws collectively provide important safeguards against deceptive health and beauty claims. However, the rapid expansion of influencer marketing has exposed significant regulatory gaps. The current framework, although progressive, remains fragmented and was not originally designed to address the complex realities of the creator economy.

The central challenge is that influencer advertising operates at the intersection of consumer law, technology law, health regulation, and commercial communication. A single promotional post may involve multiple actors, including manufacturers, advertising agencies, influencer management companies, creators, affiliate marketing networks, and digital platforms. However, existing laws often examine these actors separately rather than addressing the complete ecosystem through which misleading claims are created and distributed. Therefore, the future of consumer protection in India requires a shift from regulating individual advertisements to regulating the broader digital influence ecosystem.

Absence of a Clear Legal Definition of "Influencer"

One of the primary limitations of the present framework is the absence of a statutory definition of a digital influencer. While the Consumer Protection Act and CCPA Guidelines use concepts such as "endorser" and "advertiser," they do not specifically define the legal status of social media creators. This creates uncertainty regarding who qualifies as an influencer for regulatory purposes. Should the same obligations apply to a celebrity with millions of followers, a dermatologist creating educational content, a small beauty creator receiving free products, and an ordinary consumer posting an unpaid review?

The absence of clear classification creates difficulties in determining liability. A creator who receives monetary payment for promoting a skincare product performs a different commercial function from a consumer sharing a personal experience. Similarly, a creator providing medical-style advice requires a different level of scrutiny compared to someone discussing product packaging or fragrance.

A dedicated regulatory framework should therefore establish different categories of digital creators based on factors such as the commercial relationship with brands, the size and nature of the audience, the type of product promoted, whether health-related advice is provided, and whether objective claims are made. Such classification would allow regulation to be proportionate rather than imposing identical obligations on all forms of online expression.

Lack of Specific Rules for Health and Beauty Influencer Marketing

Health and beauty products represent one of the most sensitive categories within influencer advertising because they directly affect consumers' bodies and personal decisions. However, India currently lacks a specialised framework exclusively addressing influencer promotions of health-related products.

Existing regulations operate through different legal mechanisms. FSSAI regulates food and nutritional claims, drug laws regulate medicinal representations, consumer law regulates misleading advertisements, and ASCI provides ethical standards. While these mechanisms provide protection, their fragmented nature creates uncertainty for creators, brands, and consumers.

For example, a statement that a skincare product "improves skin appearance" may fall within ordinary cosmetic advertising. However, a claim that it "repairs DNA damage," "activates cellular regeneration," or "treats pigmentation disorders" may enter the territory of therapeutic claims. The absence of a clear classification mechanism makes compliance difficult.

India requires a unified guideline explaining acceptable cosmetic claims, prohibited medical claims, evidence requirements for scientific terminology, and the responsibilities of creators promoting health products.

Scientific Claims and Evidence Verification

A major regulatory challenge concerns the use of scientific terminology in digital advertisements. Modern health and beauty marketing frequently relies upon expressions such as "clinically proven," "doctor recommended," "dermatologist approved," "DNA repair technology," "medical-grade formula," and "scientifically tested." Such expressions create a perception of professional approval and scientific certainty. However, consumers often lack the ability to verify whether these claims are supported by meaningful evidence.

Current regulations require substantiation of claims, but they do not provide creators with a practical mechanism to verify scientific accuracy before publication. Many influencers simply rely upon information supplied by brands or agencies.

A stronger framework should introduce an evidence disclosure mechanism for high-risk categories. Before publishing claims relating to health outcomes, brands and creators should maintain accessible documentation demonstrating the nature of scientific studies conducted, the methodology adopted, the limitations of the research, and whether results apply generally or only under specific conditions. This would encourage evidence-based marketing rather than science-based appearance.

Insufficient Regulation of AI-Generated Advertising

Artificial intelligence has introduced a new dimension to misleading advertising. AI tools can now create realistic product demonstrations, synthetic testimonials, virtual influencers, and digitally enhanced transformation images.

The health and beauty industry is particularly vulnerable because visual appearance plays a central role in consumer decision-making. AI-generated images can create unrealistic expectations by altering skin texture, body shape, hair density, or ageing patterns. Existing advertising regulations primarily focus on human actors and traditional endorsements. They provide limited guidance regarding responsibility for AI-generated promotional content.

Future reforms must clarify whether AI-generated influencers require disclosure, whether synthetic testimonials should be permitted, who bears responsibility for misleading AI-generated demonstrations, and whether digitally altered before-and-after images require mandatory warnings. Without clear rules, technological advancement may create new methods of deception faster than regulatory systems can respond.

Algorithmic Accountability and Platform Responsibility

Another significant regulatory gap concerns the role of social media platforms. Current discussions largely focus on creators and brands, while platforms that amplify and recommend misleading content receive comparatively limited attention.

Algorithms determine which content receives visibility. A misleading health claim that generates high engagement may be promoted to thousands of additional users. Therefore, consumer harm may result not only from the original advertisement but also from the platform's amplification mechanisms. However, imposing unlimited liability upon platforms may create concerns regarding excessive censorship and restriction of legitimate expression. The solution therefore lies in a balanced accountability model.

Platforms should have enhanced responsibilities when they actively promote commercial content, monetise advertisements, recommend health-related promotional material, or fail to respond to repeated violations. The objective should not be to transform platforms into publishers of every post, but to recognise their role as powerful digital gatekeepers.

Need for Greater Consumer Digital Literacy

Legal regulation alone cannot completely eliminate misleading digital advertising. Consumer awareness remains an essential component of protection. Many consumers interpret phrases such as "natural," "chemical-free," "doctor recommended," or "clinically proven" as guarantees of safety and effectiveness. However, such terms may have different meanings depending upon scientific context and regulatory requirements.

Government agencies, educational institutions, and consumer organisations should promote digital literacy programmes explaining how to identify sponsored content, how to evaluate health claims, why personal testimonials do not equal scientific evidence, and the importance of consulting qualified professionals. An informed consumer is less vulnerable to persuasive but unsupported commercial claims.

Towards a Dedicated Influencer Advertising Regulation Model

India does not necessarily require a completely new statute immediately. Instead, a specialised influencer advertising framework could be developed through amendments and coordinated guidelines involving consumer authorities, health regulators, technology regulators, and industry bodies. Such a framework should include mandatory disclosure of commercial relationships, enhanced verification requirements for health and beauty claims, higher standards for creators providing medical or nutritional advice, clear liability rules among brands, influencers, agencies, and platforms, mandatory disclosure of AI-generated promotional content, stronger monitoring mechanisms for high-risk categories, and effective grievance redressal systems for consumers. There are early signs that Indian policymakers are beginning to treat the creator economy as an object of structured governance rather than an unregulated fringe activity: in March 2025, the Union Ministry of Information and Broadcasting announced a dedicated fund of USD 1 billion for the creator economy at the World Audio-Visual and Entertainment Summit, alongside growing regulatory attention from ASCI, the CCPA, and sectoral regulators, suggesting that institutional appetite for a more coordinated framework of the kind proposed above already exists.[34]

Conclusion: From Viral Influence to Verified Responsibility — Reclaiming Consumer Power in the Digital Age

The rise of influencer culture has transformed the way consumers discover, evaluate, and purchase health and beauty products. In today's digital marketplace, advertisements no longer arrive only through television screens, newspapers, or brand campaigns. They appear through familiar faces, personal stories, skincare routines, transformation videos, and carefully constructed moments of authenticity. The greatest strength of the influencer economy is not merely visibility; it is trust.

[34] Ministry of Information and Broadcasting, Government of India, announcement at the World Audio-Visual and Entertainment Summit (WAVES) 2025, reported in Coherent Market Insights, 'India Creator Economy Market Forecast, 2026-2033' <https://www.coherentmarketinsights.com/industry-reports/india-creator-economy-market> accessed 29 July 2026.

However, when that trust becomes a tool for commercial manipulation, consumer choice is no longer completely free but shaped by carefully designed persuasion.

In India, millions of consumers scroll through social media every day, often without realising that they are entering a highly personalised advertising environment. A creator recommending a serum, supplement, weight-loss product, or wellness treatment may appear like a friend sharing personal experience, but behind that recommendation may exist paid partnerships, brand strategies, affiliate commissions, and commercial incentives. The language of friendship often hides the reality of advertising. A "personal suggestion" may actually be a carefully planned marketing message designed to influence emotions, insecurities, and aspirations.

The health and beauty industry is particularly powerful because it does not merely sell products; it sells hope. It promises confidence, transformation, youth, beauty, acceptance, and a better version of oneself. Consumers who struggle with acne, ageing concerns, hair loss, body image issues, or health anxieties often become vulnerable targets for exaggerated claims. Phrases such as "clinically proven," "doctor recommended," "DNA repair," "miracle results," and "complete transformation" create an illusion of scientific certainty even when the underlying evidence may not support such promises. The problem is not that digital creators influence people. Influence itself is not harmful. In fact, responsible creators can educate consumers, simplify scientific information, and encourage informed choices. The real concern arises when influence becomes manipulation, when commercial interests are hidden behind authenticity, when personal experiences are converted into universal promises, and when viral popularity replaces scientific verification. Indian consumers today face a unique challenge. They are not only purchasing products; they are purchasing narratives. A flawless skin transformation, a dramatic before-and-after image, or a confident recommendation from a popular creator can sometimes overpower scientific reasoning. The speed of social media allows misleading claims to reach millions of individuals before legal mechanisms can respond. By the time a misleading product claim is questioned, the financial benefit has already reached the brand and the creator, while consumers are left dealing with unrealistic expectations, wasted money, and sometimes even health consequences.

Therefore, consumer protection in the digital age cannot be limited to regulating advertisements after harm occurs. It must focus on preventing manipulation before it becomes normalised. Brands must ensure scientific accuracy, influencers must recognise that trust carries responsibility, and digital platforms must acknowledge their role in amplifying commercial content.

The future of India's digital marketplace depends on creating a culture where consumers do not blindly trust virality but question validity. Every scroll, every recommendation, and every trending product should not be accepted merely because millions have viewed it. Popularity is not proof. A paid partnership is not a personal experience. A confident claim is not necessarily a scientific fact.

The ultimate objective of law is not to silence creators or restrict digital expression. It is to ensure that freedom of communication does not become a pathway for commercial deception. The consumer of the digital age must be empowered to move from being a passive viewer to an informed decision-maker.

The most important question before Indian society is therefore not whether a product can become viral, but whether the truth behind that virality has been verified. In an economy built on attention, trust has become the most valuable currency. Protecting that trust is not merely a regulatory responsibility; it is a collective responsibility. Because in the age of endless scrolling, the greatest form of consumer protection is the ability to pause, question, and ask: "Am I choosing this product because it is genuinely beneficial, or because I was successfully influenced to believe that it is?"