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# When likes go rogue: advertising standards and the malpractice of unruly social media influencers

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## ABSTRACT


Despite extensive examination of factors propelling influencer success, scant attention has been paid to influencer misconduct, especially from a regulatory standpoint. To address this gap, this article presents for the first time a systematic analysis of the UK advertising watchdog's rulings involving social media influencers. Through qualitative examination, it introduces four new themes, i.e. 'promo-masquerade', 'risk-fluence', 'mone-trapment' and 'stereo-scripting', which expand the discourse on influencer transgressions and spotlight distinct areas of regulatory concern. Even though influencers are seen as trustworthy figures in online brand communities, findings expose long-standing issues of non-compliance with established marketing rules. Criticism is directed at the inadequacy of current regulatory emphasis on recognisability of marketing intent alone, advocating instead for a more holistic approach that addresses various dimensions of influencer misconduct. Proposals include the implementation of a robust best practice framework and certification schemes to foster the influencer industry's maturity and sustainable growth.

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## Introduction

Influencer marketing (IM) leverages the amplification capabilities of social media<sup>1</sup> to seamlessly target desired demographics with cost-effective content. It now surpasses traditional celebrity endorsements in garnering attention and influence at a remarkable pace.<sup>2</sup> Despite its track record in building trust with followers, IM now stands at a critical juncture. Challenges

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<sup>1</sup>Edward McQuarrie et al, 'The Megaphone Effect: Taste and Audience in Fashion Blogging' (2013) 40(1) Journal of Consumer Research 136.

<sup>2</sup>Elmira Djafarova and Chloe Rushworth, 'Exploring the Credibility of Online Celebrities' Instagram Profiles in Influencing the Purchase Decisions of Young Female Users' (2017) 68 Computers in Human Behavior 1.

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within the influencer community itself (e.g. employment struggles, pay standards and ‘kid-fluencer’ protection)<sup>3</sup> are compounded by a prevailing trend of scepticism towards influencers’ activities.<sup>4</sup> A recent European Commission audit found that, while 97% of social media influencers (SMIs) post commercial content, only 20% properly signal that their content is advertising.<sup>5</sup> ‘Unacceptable’<sup>6</sup> disclosure compliance rates have also been flagged by the Advertising Standards Authority (ASA), the UK’s advertising regulator across all media. Other studies report that some SMIs inflate their online clout through artificial engagement (e.g. by buying armies of ‘followers’).<sup>7</sup> In a further sign of disenchantment, the influencer community’s reputation has suffered blows from searing exposés of scandals, exemplified by ‘The Liver King’ fitness influencer whose purportedly natural physique was the result of a pricey steroid regimen, not his ‘modern caveman’ diet that tricked followers into buying his supplements.<sup>8</sup>

Much of the extant IM research leans towards investigating how SMIs disclose brand connections,<sup>9</sup> and how influencer metrics (e.g. follower growth, engagement) are linked to consumer outcome variables (purchase intention, brand attitude etc).<sup>10</sup> Although SMIs’ success factors and persuasive prowess have been explored, the ways SMIs go about persuading are understudied and research on influencer-related misconduct remains scarce, particularly from a regulatory standpoint. To address this gap, the article presents new

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<sup>3</sup>House of Commons Digital, Culture, Media and Sport (DCMS) Committee, *Influencer culture: Lights, camera, inaction?* (HC 2021–22, 258). The government response has been tepid though; see Alexandros Antoniou, ‘DCMS Report on Influencer Culture: No Indication of a Change of Mood in the Government Response’ (2022) (10) IRIS – Legal Observations of the European Audiovisual Observatory 34 <<https://merlin.obs.coe.int/article/9606>> accessed 28 February 2024.

<sup>4</sup>Rebecca Mardon et al, ‘How Social Media Influencers Impact Consumer Collectives: An Embeddedness Perspective’ (2023) 50(3) *Journal of Consumer Research* 617.

<sup>5</sup>European Commission, ‘Investigation of the Commission and Consumer Authorities Finds that Online Influencers Rarely Disclose Commercial Content’ (14 February 2024) <[https://ec.europa.eu/commission/presscorner/detail/en/ip\\_24\\_708](https://ec.europa.eu/commission/presscorner/detail/en/ip_24_708)> accessed 15 February 2024.

<sup>6</sup>ASA News, ‘Putting Influencers on Notice after Monitoring Sweep Reveals Widespread Failure to Disclose Advertising’ (ASA, 18 March 2021) <<https://www.asa.org.uk/news/putting-influencers-on-notice-after-monitoring-sweep-reveals-widespread-failure-to-disclose-advertising.html>> accessed 8 March 2024.

<sup>7</sup>Ofcom, *VSP Content Creators and Community Standards* <[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0024/216519/content-creators-community-standards.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0024/216519/content-creators-community-standards.pdf)> accessed 1 February 2023; Mary-Ann Russon, ‘Are Instagram Stars Facing a Brand Backlash?’ *BBC News* (London, 22 June 2018) <<https://www.bbc.co.uk/news/business-44539536>> accessed 7 March 2024.

<sup>8</sup>Teddy Amenabar and Anahad O’Connor, ‘TikTok “Liver King” Touted Raw Organ Meat Diet. He also Took Steroids’ *The Washington Post* (6 December 2022) <<https://www.washingtonpost.com/wellness/2022/12/06/liver-king-steroids-ancestral-diet/>> accessed 1 March 2024.

<sup>9</sup>E.g., Zeynep Karagür et al, ‘How, why, and when Disclosure Type Matters for Influencer Marketing’ (2022) 39(2) *International Journal of Research in Marketing* 313; Courtney Carpenter Childers et al, ‘#Sponsored #Ad: Agency Perspective on Influencer Marketing Campaigns’ (2019) 40(3) *Journal of Current Issues and Research in Advertising* 258.

<sup>10</sup>E.g., Marijke De Veirman et al, ‘Marketing through Instagram Influencers: The Impact of Number of Followers and Product Divergence on Brand Attitude’ (2017) 36(5) *International Journal of Advertising* 798; Seung-A Annie Jin and Joe Phua, ‘Following Celebrities’ Tweets about Brands: The Impact of Twitter-Based Electronic Word-of-Mouth on Consumers’ Source Credibility Perception, Buying Intention, and Social Identification with Celebrities’ (2014) 43(2) *Journal of Advertising* 181.

qualitative insights on SMI malpractice by systematically analysing for the first time the ASA's SMI-related adjudications between October 2017 and April 2024 (totalling 141 rulings).<sup>11</sup>

The findings expose long-standing issues of non-compliance with established marketing rules, enriching our current understanding of SMI transgressions. The analysis introduces four new areas of concern, classified under novel terminology to encourage a more nuanced discussion around influencer misconduct: (a) 'promo-masquerade' (which extends the existing conceptualisation of transparency in IM to employing editing techniques that obscure the true nature of advertised products and disguising promotions behind a veneer of impartiality or fairness); (b) 'risk-fluence' (which addresses public well-being and safety concerns arising from impermissible health/nutrition claims, prohibited and age-restricted products); (c) 'mone-trapment' (i.e. luring followers into excessive spending or trapping them in expenditures devoid of genuine benefit); and (d) 'stereo-scripting' (namely, harmful stereotypes weaved in IM narratives). The article argues that these pressing issues have been eclipsed by the issue of disclosure of commercial intent that has dominated research and policy. The current heavy emphasis on ad labelling is misguided though, as most video-sharing site users are already aware of potential paid endorsements by SMIs.<sup>12</sup> The analysis highlights that a broader sense of responsibility, which is central to the ASA's mission and ethos, is much less pronounced among SMIs, necessitating a more holistic evaluation of their practices that goes beyond the narrow perspective of transparency. Emerging concerns in this evolving landscape are briefly highlighted before presenting recommendations.

Despite the ongoing process of professionalisation within the rapidly expanding IM sector,<sup>13</sup> and the perception among SMIs that their practice represents 'a new form of professional advertising',<sup>14</sup> the article provides strong evidence that some SMIs lack a mark of professional diligence. SMIs cannot escape accountability merely because they are not directly tasked with addressing deficiencies in corporate oversight. Given their analogous roles to traditional advertisers, there is a compelling argument for holding them to comparable rigorous standards. It would be inherently flawed and inconsistent if individuals engaging in activities akin to advertising were exempt from equivalent

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<sup>11</sup>The article builds on previously published research examining ASA rulings on transparency in influencers' endorsements (issued between 2017 and 2021); see Alexandros Antoniou, 'Advertising Regulation and Transparency in Influencers' Endorsements on Social Media' (2021) 26(4) *Communications Law* 190. Since then, the sample was enriched to include 76 rulings on recognition of marketing intent and 65 rulings (issued between Oct 2017 and Apr 2024) on other matters. Retrieval of adjudications involving SMIs was conducted through manual filtering of the ASA database. It was not possible to review rulings for a longer period prior to the time of submission, due to the ASA website's archive constraints. All rulings are listed in the accompanying appendix.

<sup>12</sup>Ofcom, *Adults' Media Use and Attitudes* (June 2017) 111 <[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0020/102755/adults-media-use-attitudes-2017.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0020/102755/adults-media-use-attitudes-2017.pdf)> accessed 26 February 2024.

<sup>13</sup>House of Commons DCMS Committee, *Influencer culture* (n 3) para 4.

<sup>14</sup>*ibid* para 11.

substantive standards.<sup>15</sup> The article advocates for the implementation of *ex ante* interventions to incentivise responsible SMI practice from the outset, rather than relying on a scattershot regulatory approach that seeks to assign blame after bad ads have had their impact on followers. The focus should not solely rest on finding the target of a regulatory response *after* the fact but should instead aim at establishing a clear baseline of expectations; the ‘floor’ through which SMIs cannot fall. While breaking a rule is a bad thing to do, being a rule-breaker is a bad way to be. A culture of rule-breaking, particularly among SMIs as new entrants to the advertising arena, is highly undesirable. The discussion highlights the pressing need for a comprehensive and customised good (or best) practice framework, aimed not only at preventing SMIs from falling through the legal floor but also at ensuring consistent compliance, akin to professionals in other sectors.

### **From fame to faux pas: mapping out SMI missteps and infractions**

There is currently no established legal definition or industry consensus on what constitutes IM or who qualifies as an influencer. Although definition-related questions abound,<sup>16</sup> the article embraces the definition in the House of Commons influencer culture report, which conceptualised an influencer as ‘an individual content creator who builds trusting relationships with audiences and creates both commercial and non-commercial social media content across topics and genres.’<sup>17</sup> While not directly stipulating SMIs’ responsibilities to followers, the term ‘trusting’ underscores an inherent obligation to produce content considerably, given the dependable relationships established with followers. In essence, SMIs’ views matter to followers, hence there is an implicit expectation to uphold integrity. SMIs become subjects of responsibility ascriptions and legitimate recipients of reactive attitudes like praise and blame on account of their conscious immersion in interpersonal relationships<sup>18</sup> and voluntary participation in online

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<sup>15</sup>The terms ‘marketing’ and ‘advertising’ are frequently interchanged but carry slightly different meanings. Marketing encompasses the process of readying a product/service for the marketplace, involving research gathered by marketing strategists to craft compelling promotions aimed at shaping choices, behaviours, or opinions. Advertising is a narrower subset of marketing, focusing on increasing awareness of a product/service. It represents the culmination of the marketing process and is often what the outer world often sees; European Advertising Standards Alliance, *Best Practice Recommendation on Digital Marketing Communications 2023* (EASA 2023) section 2.2.2. Despite these nuanced differences, the practical implications for analytical purposes remain largely unaffected.

<sup>16</sup>Catalina Goanta and Sofia Ranchordás, ‘The Regulation of Social Media Influencers: An Introduction’ in Catalina Goanta and Sofia Ranchordás (eds), *The Regulation of Social Media Influencers* (Edward Elgar Publishing 2020).

<sup>17</sup>House of Commons DCMS Committee, *Influencer culture* (n 3) para 3. For the benefits of adopting this definition, see Alexandros Antoniou, ‘Navigating Freezones in the Influencerdom: A Shadowlands Guide’ (2024) 29(1) Communications Law 8, 14.

<sup>18</sup>Debasis Pradhan et al, ‘Influencer Marketing: When and Why Gen Z Consumers Avoid Influencers and Endorsed Brands’ (2022) 40(1) Psychology and Marketing 27, 29.

brand communities, whose inherent advantages (e.g. higher levels of engagement) have tempted marketers.<sup>19</sup>

Brand communities are understood as non-geographically bound forms of human association, providing a social structure to the relationship between marketers and brand admirers in a consumption context.<sup>20</sup> Established ethnographic research, validated for its relevance to computer-mediated environments<sup>21</sup> and social media-based brand communities,<sup>22</sup> shows that the ultimate hallmark within such communities lies in a subtle ‘sense of duty’<sup>23</sup> to all of its members, akin to a guiding moral compass in traditional off-line communities, delineating what constitutes reprehensible conduct.<sup>24</sup> The idea of a duty to the community involves facilitating the ‘proper use’<sup>25</sup> of the brand and ‘helping other members’<sup>26</sup> in their consumption experience. This tacitly acknowledges certain expectations from those who disseminate brand-related content (e.g. when extolling product qualities). SMIs’ distinct nature of intimacy with their followers and ability to cultivate trustworthiness as perceived sources of valid assertions<sup>27</sup> create an underlying expectation of reciprocity that they will behave responsibly in supporting community members when navigating potentially grey areas of decision-making as well as the brand community itself in functioning properly as a united whole. In other words, SMIs’ unique characteristics and the dynamics of the online communities they inhabit mean that certain demands can be placed on them when performing a role that is not too dissimilar from that of traditional advertisers.

SMIs also bear considerable responsibility as recognised micro-public figures in their online communities. By leveraging the power of their online ‘stages’, they garner significant attention, generate profound interest from followers<sup>28</sup> and shape commercial discourse, embodying the essence of a public figure. While the threshold for public figure status remains ambiguous (it is uncertain, for instance, if ‘internet famous’ or ‘verified’ with a blue check-mark suffices), the evolving perspective that has notably populated the Strasbourg Court’s reasoning, underscores its contextually-driven

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<sup>19</sup>Brands leverage the idea of a ‘community’ of dedicated enthusiasts to build lifelong customer value: see Kyle Wong, ‘How the World’s Top Fitness Brands are Building Social Community to Grow their Business’ *Forbes* (21 September 2017) <<https://www.forbes.com/sites/kylewong/2017/09/21/how-the-worlds-top-fitness-brands-are-building-social-community-to-grow-their-business/>> accessed 10 February 2024.

<sup>20</sup>Albert Muniz and Thomas O’Guinn, ‘Brand Community’ (2001) 27(4) *Journal of Consumer Research* 412, 412.

<sup>21</sup>James McAlexander et al, ‘Building Brand Community’ (2002) 66(1) *Journal of Marketing* 38.

<sup>22</sup>Michel Laroche et al, ‘The Effects of Social Media-based Brand Communities on Brand Community Markers, Value Creation Practices, Brand Trust and Brand Loyalty’ (2012) 28(5) *Computers in Human Behavior* 1755, 1764.

<sup>23</sup>Muniz and O’Guinn (n 20) 424–26.

<sup>24</sup>Todd Clear et al, *Community Justice* (Taylor & Francis 2010) 6.

<sup>25</sup>Muniz and O’Guinn (n 20) 424.

<sup>26</sup>*ibid* 424–25.

<sup>27</sup>Djafarova and Rushworth (n 2).

<sup>28</sup>Hanna Reinikainen et al, ‘“You Really are a Great Big Sister” – Parasocial Relationships, Credibility, and the Moderating Role of Audience Comments in Influencer Marketing’ (2020) 36(3–4) *Journal of Marketing Management* 279.

nature,<sup>29</sup> now encompassing celebrities and internet fame.<sup>30</sup> Emerging marketing discourse views SMIs as a distinct category of modern celebrities,<sup>31</sup> cultivating social network stardom through successful self-branding within specific niche audiences.<sup>32</sup> From this standpoint, IM parallels traditional celebrity endorsements, historically used by advertisers to boost sales<sup>33</sup> by transferring favourable traits onto a branded product to positively affect purchasing intent.<sup>34</sup>

In the past, however, when a brand was endorsed by a traditional celebrity, the focus of scrutiny would typically fall on the brand itself rather than the celebrity endorser.<sup>35</sup> With the rise of SMIs, this dynamic has shifted. Unlike traditional A-listers who are often perceived as distant and unapproachable, SMIs garner public appeal through their ordinary, authentic and relatable persona,<sup>36</sup> which is forged by opportunities for repeated interaction partly enhancing their persuasive appeal.<sup>37</sup> The comparatively stronger trust that SMIs elicit and their ability to act as more impactful endorsers than traditional celebrities,<sup>38</sup> accentuate their responsibilities. Despite their influential role, SMIs' position has significantly enfeebled lately,<sup>39</sup> highlighting the need for careful consideration of their responsibilities as trusted opinion leaders.

Marketing research commonly labels SMI practices that contravene industry standards, legal norms, ethical guidelines, or brand expectations

<sup>29</sup>Kirsty Hughes, 'The Public Figure Doctrine and the Right to Privacy' (2019) 78(1) *Cambridge Law Journal* 70, 73–78.

<sup>30</sup>Including individuals from the world of business, journalists and lawyers, and persons who have a 'position in society'; e.g., *Verlagsgruppe News GmbH v Austria* (No. 2) [2007] EMLR 13 at [36]; or have 'entered the public scene'; e.g., *Miljević v Croatia* (Application no. 68317/13) [2020] ECHR 489 (25 June 2020) at [71]. See also the broad definition adopted by the Parliamentary Assembly of the Council of Europe, Resolution 1165 (1998) on the Right to Privacy (para 7), cited with approval by the domestic courts, e.g., *Spelman v Express Newspapers* [2012] EWHC 355 at [49].

<sup>31</sup>Sophia Gaenssle and Oliver Budzinski, 'Stars in Social Media: New Light through Old Windows' (2021) 18(2) *Journal of Media Business Studies* 79.

<sup>32</sup>Tobias Raun, 'Capitalizing Intimacy: New Subcultural Forms of Micro-celebrity Strategies and Affective Labour on YouTube' (2018) 24(1) *The International Journal of Research into New Media Technologies* 99, 104.

<sup>33</sup>Lars Bergkvist and Kris Qiang Zhou, 'Celebrity Endorsements: A Literature Review and Research Agenda' (2016) 35(4) *International Journal of Advertising* 642, 647.

<sup>34</sup>Charles Atkin and Martin Block, 'Effectiveness of Celebrity Endorsers' (1983) 23(1) *Journal of Advertising Research* 57; Grant McCracken, 'Who Is the Celebrity Endorser? Cultural Foundations of the Endorsement Process' (1989) 16(3) *Journal of Consumer Research* 310.

<sup>35</sup>Bergkvist and Zhou (n 33) 651–52.

<sup>36</sup>Raun (n 32) 106; Alexander Schouten et al, 'Celebrity vs. Influencer Endorsements in Advertising: The Role of Identification, Credibility and Product-endorser Fit' (2020) 39(2) *International Journal of Advertising* 258, 276.

<sup>37</sup>Schouten et al (n 36); David Huffaker, 'Dimensions of Leadership and Social Influence in Online Communities' (2010) 36(4) *Human Communication Research* 593, 595; Nicole Liebers and Holger Schramm, 'Parasocial Interactions and Relationships with Media Characters: An Inventory of 60 Years of Research' (2019) 38(2) *Communication Research Trends* 4.

<sup>38</sup>Schouten et al (n 36).

<sup>39</sup>Elmira Djafarova and Oxana Trofimenko, "'Instafamous': Credibility and Self-presentation of Micro-celebrities on Social Media' (2019) 22(10) *Information, Communication and Society* 1432.

as ‘immoral’ or ‘unethical actions’ or ‘transgressions’ – often used interchangeably.<sup>40</sup> A first, though unstructured, overview of various forms of ‘unethical practices’ among influencers emerged from the qualitative study of Čop and Culiberg, who surveyed Generations Z and Y about their concerns over influencer behaviour and delineated a typology of questionable activities covering: breach of trust through lack of disclosures, deception by distorting reality (e.g. fake testimonials), lack of expertise integrity, brand-influencer incongruence, and misleading promotions.<sup>41</sup> There remains, however, a notable dearth of systematic research addressing influencer-related misconduct, and a comprehensive theoretical structuration for understanding such behaviour has yet to be established.

A more thorough examination of influencer transgressions is presented by Von Mettenheim and Wiedmann, who draw upon Klass’ theoretical structure of ‘immoral actions’ featuring: (a) dishonesty and counter-attitudinal advocacy (i.e. promoting viewpoints contradictory to one’s own); (b) aggression (physical or verbal); and (c) interpersonal harm and inequity.<sup>42</sup> By adapting this framework, Von Mettenheim and Wiedmann’s empirical study develops a parallel structure, categorising influencer transgressions into three broadly equivalent groups: (a) misinformation and lie-based transgressions; (b) offensive language; and finally, (c) violations of virtual property and privacy.<sup>43</sup> Within these three umbrella categories, the researchers identify eleven distinct influencer-specific transgressions, which are summarised below for contextual purposes. The analysis of the ASA’s rulings in the next section of this paper extends this categorisation, while introducing new areas of concern.

The *first* group of Von Mettenheim and Wiedmann’s classification largely represents practices pertaining to the circulation of false information (mirroring essentially dishonesty and lies as the first root of immoral behaviour under Klass’ categorisation above). It comprises four (out of the eleven) SMI-specific transgressions: namely, (i) undisclosed sponsored posts; (ii) endorsement without genuinely believing in a product’s merits; (iii) manipulated images showing influencers in an unrealistically positive setting (e.g. a fashion influencer being digitally inserted into Parisian scenes they never graced); and (iv) representing a staged persona far removed from reality.

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<sup>40</sup>The indiscriminate interchange of the terms arguably overlooks their nuanced differences and fails to recognise the distinctions among morals, ethics, and legal principles; Hazard Jr, ‘Law, Morals, and Ethics’ (1995) 19(3) Southern Illinois University Law Journal 447.

<sup>41</sup>Nina Čop and Barbara Culiberg, ‘Business is Business: The Difference in Perception of Influencer’s Morality between Generation Y and Z’ in Francisco Martínez-López and Steven D’Alessandro (eds), *Advances in Digital Marketing and E-commerce* (Springer 2020).

<sup>42</sup>Ellen Klass, ‘Psychological Effects of Immoral Actions: The Experimental Evidence’ (1978) 85(4) Psychological Bulletin 756.

<sup>43</sup>Walter von Mettenheim and Klaus-Peter Wiedmann, ‘Influencer Transgressions: The Impacts on Endorser and Brand’ (2023) 35(1–2) journal of Media Economics 28.



The prominent case of ‘super-influencer’ Belle Gibson, a self-proclaimed wellness devotee whose downfall garnered widespread attention after it came to light that she had deliberately misled her followers by promoting dangerous pseudoscience as a remedy for her inoperable brain cancer,<sup>44</sup> would fall into this first group of transgressions.

The *second* group in Von Mettenheim and Wiedmann’s study encompasses five instances of inappropriate expression (‘bad language’ as they put it), aligning with Klass’ category of aggression. The spectrum of negative behaviour spans from mild instances, i.e. (i) gossiping; (ii) disrespecting or insulting followers and (iii) swearing (sometimes gratuitously) to (iv) advocating extremist ideologies and (v) articulating racist sentiments at the most severe end. A poignant example of the utmost severity is the spectacular fall of SMI Andrew Tate, who championed a jet-set lifestyle and fuelled the online ‘manosphere’ with anti-feminist rhetoric, leaving parents, educators, politicians, and charities concerned about his influence on young men’s views on male supremacy.<sup>45</sup>

The remaining two (of eleven) types of SMI transgressions emerging from the authors’ study are found under a *third* group comprising virtual property and privacy violations (matching to an extent Klass’ interpersonal harm and inequity classification). This final set of transgressions is occupied by (i) unauthorised use of copyright-protected material, likened to ‘stealing’; and (ii) ‘sharenting’, where parents share child-centric content for audience engagement and monetisation often disregarding the minor’s ability to oppose to the exposure of their image online.<sup>46</sup>

However, Von Mettenheim and Wiedmann’s investigation predominantly centres on the adverse effects of such misconduct on endorsed brands and the influencer-related variable of trust decrease. Other recent studies exhibit limited scope. A narrow stream of research focuses on a fraction of specific forms of misconduct falling into one of the categories identified earlier, e.g. Čop and Culiberg uncover primarily deceptive practices in SMI advertising. Likewise, Cocker et al address predominantly lie-based transgressions such as underhand endorsements, compromised integrity due to excessive sponsor incentives, or relatively benign variations, like overly scripted or staged endorsements that diminish an audience’s enjoyment of the SMIs’ content.<sup>47</sup> Rogers looks at hate speech and ‘bad language’

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<sup>44</sup>Stephanie Baker and Chris Rojek, ‘The Belle Gibson Scandal: The Rise of Lifestyle Gurus as Micro-celebrities in Low-trust Societies’ (2020) 56(3) *Journal of Sociology* 388.

<sup>45</sup>George Wright and Matt Murphy, ‘Andrew Tate Detained in Romania Over Rape and Human Trafficking Case’ *BBC News* (London, 30 December 2022) <<https://www.bbc.co.uk/news/world-europe-64122628>> accessed 3 February 2023; Sally Weale, ‘“We See Misogyny Every Day”: How Andrew Tate’s Twisted Ideology Infiltrated British schools’ *The Guardian* (London, 2 February 2023) 4.

<sup>46</sup>Giulia Ranzini et al, ‘Sharenting, Peer Influence, and Privacy Concerns’ (2020) 6(4) *Social Media + Society* DOI: <https://doi.org/10.1177/2056305120978376>.

<sup>47</sup>Hayley Cocker et al, ‘Social Media Influencers and Transgressive Celebrity Endorsement in Consumption Community Contexts’ (2021) 55(7) *European Journal of Marketing* 1841.

(or aggression under Klass' categorisation), correlating extremism and racism with influencer de-platforming.<sup>48</sup> Another line of extant literature examines singular transgressions by individual influencers, as seen, for example, in Fägersten's analysis of Swedish YouTuber PewDiePie's use of swear words while playing horror video games.<sup>49</sup>

Although previous literature recognises influencer transgressions, it still lacks a thorough grasp of their dynamics and intricacies. None of the cited studies considers SMI misconduct from the standpoint of advertising watchdogs, thereby overlooking the relevance of regulatory benchmarks and mandated industry standards that are critical for crafting policies towards a healthier and sustainable IM industry. The article seeks to fill this gap. Before proceeding with the analysis of the ASA's rulings, a note on terminology: this article favours the term 'malpractice' as more fitting than 'transgressions' to describe SMI misconduct within the evolving landscape of their professional identities. As SMIs advance their careers, they undergo a profound transformation, emerging predominantly as proficient promotional entities adept at capturing attention and then on-selling audiences.<sup>50</sup> They now epitomise a new breed of professional advertisers,<sup>51</sup> acknowledging platforms like TikTok and Instagram as their new organisational domain. This evolution, manifested in titles such as 'digital content creators' or platform-specific designations like 'TikTokker' or 'Instagrammer,' highlights a shift towards a more structured industry. Against this backdrop, 'malpractice' better encapsulates potential lapses or non-compliance with advertising rules, reflecting the gravity of consequences in other fields where malpractice is a recognised concept, in contrast to the generalised notion of 'transgression'.

## Behind the posts: unmasking SMI malpractice through advertising standards

The 'established means'<sup>52</sup> for investigating advertising-related complaints in the non-broadcast space, including influencer ads on social media, is the ASA, the UK's frontline advertising regulator. Through a blend of self

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<sup>48</sup>Richard Rogers, 'De-platforming: Following Extreme Internet Celebrities to Telegram and Alternative Social Media' 35(3) *European Journal of Communication* 213.

<sup>49</sup>Kristy Beers-Fägersten, 'The Role of Swearing in Creating an Online Persona: The Case of YouTuber PewDiePie' (2017) 18 *Discourse, Content & Media* 1.

<sup>50</sup>Susie Khamis et al, 'Self-branding, "Micro-celebrity" and the Rise of Social Media Influencers' (2017) 8(2) *Celebrity Studies* 191, 200–02.

<sup>51</sup>House of Commons DCMS Committee, *Influencer culture* (n 3) para 11; Antoniou, 'Navigating Freezones in the Influencerdom' (n 17) 11–12.

<sup>52</sup>Office of Fair Trading, *Consumer Protection from Unfair Trading: Guidance on the UK Regulations implementing the Unfair Commercial Practices Directive* (Department for Business Enterprise and Regulatory Reform 2008) para 11.9 <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/284442/oft1008.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/284442/oft1008.pdf)> accessed 1 February 2024.

– and co-regulatory enforcement mechanisms (bolstered through legal backstops in the consumer protection landscape),<sup>53</sup> the ASA oversees the implementation of the UK Advertising Codes. These are authored and maintained by two industry bodies, the Committee of Advertising Practice (CAP Code) and Broadcast Committee of Advertising Practice (BCAP Code),<sup>54</sup> and are enforced independently by the ASA through a complaints process and proactive monitoring across different media. While the Codes have no statutory underpinning, and neither the Committees nor the ASA directly interpret or enforce the law, compliance is mandatory for all UK advertisers, including SMIs, and marketers directly targeting UK consumers. SMI content falls within the remit of the CAP Code, the rules of which are media-neutral, allowing for swift adaptation to emerging platforms or evolving formats within existing ones. The ASA operates a tiered sanctions system, featuring listing non-compliant SMIs on an online public register,<sup>55</sup> deploying targeted on-platform advertising campaigns, and referrals to platforms for enforcement. Content violating the CAP Code may be forwarded to Trading Standards Services for potential enforcement action.

The government's proposed Online Advertising Programme (OAP) is anticipated to strengthen existing oversight by fostering a closer alignment between the ASA and the various stakeholders across the advertising supply chain (including platforms, intermediaries, and publishers).<sup>56</sup> The OAP seeks to supplement ongoing digital regulation reforms, notably the Online Safety Act 2023, recognising that the latter is 'not the right vehicle'<sup>57</sup> for addressing the complexities of the online advertising ecosystem. The Act predominantly focuses on user-generated content on user-to-user and search services and does not adequately cover online advertising,<sup>58</sup> which operates through distinct channels and involves additional players and harms beyond its scope. In response, the OAP is expected to

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<sup>53</sup>The regulator's partner network includes the Office of Communication (Ofcom), the Competition and Markets Authority (CMA), the Gambling Commission, the Information Commissioner's Office (ICO), the Medicines and Healthcare Products Regulatory Agency and the Financial Conduct Authority (FCA). For the details of the ASA system, see ASA, *About Regulation* <<https://www.asa.org.uk/about-asa-and-cap/about-regulation/self-regulation-and-co-regulation.html>> accessed 2 February 2024.

<sup>54</sup>The Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code) applies to non-broadcast advertisements, sales promotions and direct marketing communications; the Code of Broadcast Advertising (BCAP Code) applies to all advertisements and programme sponsorship credits on Ofcom-licensed TV and radio.

<sup>55</sup>ASA, *Non-compliant social media influencers* <<https://www.asa.org.uk/codes-and-rulings/non-compliant-social-media-influencers.html>> accessed 23 February 2024.

<sup>56</sup>DCMS, *Government Response to the OAP Consultation* (25 July 2023) <<https://www.gov.uk/government/consultations/online-advertising-programme-consultation/outcome/government-response-to-online-advertising-programme-consultation>> accessed 2 May 2024.

<sup>57</sup>DCMS, *OAP Consultation* (25 July 2023) section 1.1.1 <<https://www.gov.uk/government/consultations/online-advertising-programme-consultation/online-advertising-programme-consultation#ministerial-forward>> accessed 2 May 2024.

<sup>58</sup>Given the pressing need to combat fraudulent advertising, Parliament introduced in the Act a standalone statutory duty requiring high-reach and high-risk services in its scope, along with the largest search engines, to adopt systems and process that prevent individuals from encountering fraudulent

introduce targeted statutory measures mandating intermediaries and platforms to implement ‘proportionate systems and processes’<sup>59</sup> to prevent users from encountering paid-for ‘unlawful adverts’<sup>60</sup> (e.g. scams, ads for illegal products) and shield minors from exposure to restricted products (e.g. alcohol, vapes etc). It also intends to open communication channels and increase accountability in the online advertising space by promoting increased information sharing with regulators and civil society (through e.g. regular reporting, a central ad repository etc).<sup>61</sup> However, these initiatives appear to hone in on the most egregious forms of illegal advertising, without proposing interventions for a broader range of harms. Importantly, the extent to which influencers and influencer agencies will fall within the scope of regulated parties and entities is uncertain. While the specifics of intermediary functions, player involvement and content in scope of the OAP are pending determination, insights from the ASA’s influencer-related decision-making can be consolidated into the proposed regulatory reforms moving forward.

While the CAP Code rules engaged and applied in the ASA’s IM adjudications seem largely adequate in content and scope, the next sections show that they belie a misalignment in prevailing policy priorities. There is a disproportionate emphasis on undisclosed SMI advertising, overshadowing a wider spectrum of influencer malpractice. Consequently, the current policy trajectory perilously veers away from addressing broader issues that warrant equal attention and intervention. Four overarching themes crystallise from the analysis of the ASA’s rulings, grouped under new terminology to facilitate a more nuanced discourse around SMI malpractice. The **first** theme extends existing research on lie-based practices to encompass unfairly administered promotions, exaggerated product efficacy and visual enhancement techniques, alongside the persistent issue of lack of transparency of marketing intent; collectively coined as ‘promo-masquerade’. The **second** pertains to public well-being and safety, covering impermissible health and nutrition claims, prohibited products and irresponsible marketing of age-restricted products, referred to as ‘risk-fluence’. The **third** theme encompasses financial exploitation and manipulation, introduced as ‘mone-trapment’; and finally, the **fourth** addresses stereotypical and damaging societal constructs, termed ‘stereo-scripting’ to reflect SMI’s role in perpetuating harmful narratives through their curated content. This approach enriches prior research in SMI misconduct and helps streamline monitoring

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advertising (or ‘minimise’ in the case of search services the length of time for which such ads are encountered) on their services; ss 38–40 of the Act.

<sup>59</sup>DCMS, *Government Response to the OAP Consultation* (n 56), Part 4.

<sup>60</sup>*ibid.*

<sup>61</sup>*ibid.*

efforts by focusing on overarching principles rather than individual infractions.

### **Promo-masquerade**

This theme encapsulates the fusion of ‘promotion’ and ‘masquerade’, illustrating how SMIs conceal their marketing intentions, obscure the true nature of product effects behind a facade of authenticity or cloak promotions under the semblance of fairness. The malpractices identified broaden previous understanding of transparency in SMIs’ endorsements to encompass not only failures to disclose *when* they advertise to followers,<sup>62</sup> but also *what* and *how* they advertise.

### **Transparency of marketing intent**

In both physical and digital communities, clear signage aids individuals in navigating spaces and services. Prominent disclosures in online consumption environments mitigate the negative impact of covert advertising by triggering followers’ critical thinking and facilitating informed decision-making.<sup>63</sup> Transparency acquires even more salience in IM where sponsored content merges with users’ feeds. Unlike traditional TV and radio advertising formats, where commercials are clearly segregated from regular programming by distinct breaks or segments, sponsored content on social media often seamlessly blends with regular posts, blurring the boundary between ads and genuine, organic contributions. The expectation that SMIs will uphold transparency is particularly ingrained in the values of Gen Z, who view any deviation as a breach of community standards on the part of SMIs *and* brands.<sup>64</sup> In meeting this expectation, SMIs face a very delicate balance: to be effective, their endorsements must feel genuine and not solely reliant on money, yet compensation (necessary for commercial success) can give the impression that SMIs’ support is for sale.<sup>65</sup>

The lack of transparency in SMI endorsements echoes previously discussed studies framing inadequate ad disclosures as a lie-based transgression. Recognition of influencer marketing communications has also come under the regulatory spotlight, as seen in a significant portion of SMI-related rulings (76 out of 141) during the period under review (Oct 2017 – Apr 2024). Under the CAP Code, SMIs must disclose material connections between brands and themselves in an obvious, conspicuous, prominent,

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<sup>62</sup>Čop and Culiberg (n 41); Von Mettenheim and Wiedmann (n 43); Cocker et al (n 47).

<sup>63</sup>Marian Friestad and Peter Wright, ‘The Persuasion Knowledge Model: How People Cope with Persuasion Attempts’ (1994) 21(1) *Journal of Consumer Research* 1.

<sup>64</sup>Pradhan et al (n 18) 31.

<sup>65</sup>Nathaniel Evans et al, ‘Disclosing Instagram Influencer Advertising: The Effects of Disclosure Language on Advertising Recognition, Attitudes, and Behavioral Intent’ (2017) 17(2) *Journal of Interactive Advertising* 138.

upfront, timely and unambiguous manner in both third-party and self-published content.<sup>66</sup> This mirrors Banned Practice 11 (advertorial) under the Consumer Protection from Unfair Trading Regulations (CPRs) 2008, i.e. using editorial content in the media to promote a product without disclosing payment to the content creator.<sup>67</sup> CAP Code breaches that constitute a violation of consumer protection law, as in the case of insufficient ad labelling, may prompt referrals to Trading Standards, although the advertising watchdog has rarely taken this step.

Following the CAP Code's extension in 2011 to cover non-paid-for spaces online (e.g. companies' claims on their own websites and social media under their control),<sup>68</sup> transparency cases largely concerned traditional celebrity endorsers.<sup>69</sup> For instance, breaches were found in 2012 when footballers Wayne Rooney and Jack Wilshere referenced Nike's marketing slogans on social media without sufficient indication that they were ads.<sup>70</sup> In 2012 and 2013, the ASA prioritised transparency in online paid endorsements; they actively monitored bloggers' disclosures and issued new guidelines requiring ad networks to explicitly indicate the delivery of behaviourally targeted ads.<sup>71</sup> When the internet overtook television as the most complained-about medium for the first time in 2014,<sup>72</sup> the regulator's attention turned to vlogging activities lacking clear advertising identification;<sup>73</sup> a shift particularly highlighted by the much-publicised *Mondelez* ruling, which involved five vlogs featuring popular YouTubers in an Oreo 'Lick Race'.<sup>74</sup> Termed

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<sup>66</sup>Rules 2.1, 2.4. Detailed guidance outlines how much disclosure must be provided, how this should occur across different formats (e.g., video, live-stream), the nature of brand relationships, labelling standards etc; see ASA, *Influencers' guide to making clear that ads are ads* (3rd edn, 23 March 2023) 7 <<https://www.asa.org.uk/resource/influencers-guide.html>> accessed 12 February 2024. It appears that no case has been pursued yet against SMIs who have omitted a clear label (e.g., #AD) but used a platform's own branded content tool, e.g., Instagram's Paid Partnership tool.

<sup>67</sup>CAP Code, Appendix 1; Digital Markets, Competition and Consumers Bill (HL Bill 47), cl 224 and Sch 19, para 12. Consumer protection issues sit outside the scope of this article which focuses on advertising standards; see further Antoniou, 'Navigating Freezones in the Influencerdom' (n 17) and Christine Riefa and Laura Clausen, 'Towards Fairness in Digital Influencers' Marketing Practices' (2019) 8(2) *Journal of European Consumer and Market Law* 64.

<sup>68</sup>ASA, *The Extended Digital Remit of the CAP Code* (1 March 2011) <<https://www.asa.org.uk/static/uploaded/11169db8-db8f-4b9d-bac2674f728d8bc5.pdf>> accessed 2 February 2023.

<sup>69</sup>ASA and CAP Annual Report 2012 (1 April 2013) 22 <<https://www.asa.org.uk/resource/asa-and-cap-annual-report-2012.html>> accessed 6 March 2024.

<sup>70</sup>ASA Ruling on *Nike (UK) Ltd* (20 June 2012) <<https://www.asa.org.uk/rulings/nike-uk-ltd-a12-183247.html>> accessed 6 March 2024.

<sup>71</sup>ASA and CAP Annual Report 2013 (1 April 2014) 20 <<https://www.asa.org.uk/resource/asa-and-cap-annual-report-2013.html>> accessed 6 March 2024.

<sup>72</sup>ASA and CAP Annual Report 2014 (1 April 2015) 37 <<https://www.asa.org.uk/resource/asa-and-cap-annual-report-2014.html>> accessed 6 March 2024.

<sup>73</sup>ASA and CAP Annual Report 2015 (1 April 2016) 12 <<https://www.asa.org.uk/resource/asa-and-cap-annual-report-2015.html>> accessed 6 March 2024; see also ASA, *Making ads clear: The challenge for advertisers and vloggers* (26 November 2014) <<https://www.asa.org.uk/news/making-ads-clear-the-challenge-for-advertisers-and-vloggers.html>> accessed 4 February 2023.

<sup>74</sup>ASA Ruling on *Mondelez UK Ltd* (26 November 2014) <<https://www.asa.org.uk/rulings/mondelez-uk-ltd-a14-275018.html> - .VHWXYNkWN0> accessed 8 March 2024. The regulator supported a BBC

as a ‘landmark’<sup>75</sup> ruling by the ASA, it paved the way for the application of transparency rules to content creators who did not enjoy the status of traditional A-listers. Nevertheless, during the early years of the ASA’s expanded remit SMIs remained on the periphery of the regulator’s radar.

It was not until 2017 that the term ‘influencers’ made its inaugural appearance in the regulator’s annual reports, coinciding with upheld complaints against a cosmetic company, an SMI, and their management agency for insufficiently disclosing promotions on Snapchat.<sup>76</sup> Subsequent years witnessed a consistent growth in SMI investigations, particularly spiking in 2019. Despite a slight decline in the following year, presumably attributed to the pandemic-induced economic downturn, SMI-related probes rebounded in 2021 and 2022, re-affirming the upward trend. Even amidst a peak in online cases resolved in 2023, the substantial volume of SMI-related cases underscores the significance of sustained scrutiny of influencer activities (Table 1).<sup>77</sup>

The notable surge in SMI-related cases in 2019 was likely propelled by the ASA’s intensified enforcement of its rules on recognition of marketing communications on social media, allowing the prevalence of previously unrealised endorsements to surface. While followers understood SMIs’ need to engage in brand partnerships for financial sustainability, they soon began questioning breaches of perceived communal responsibilities around endorsements,<sup>78</sup> e.g. by challenging excessive brand references and over-saturated content that eroded SMIs’ creative freedom. Also, SMIs’ indulgence in lavishly paid excursions (or sponsored luxurious lifestyles) was perceived as violating established communal responsibilities because SMIs jeopardised fellow members’ access to impartial peer-to-peer recommendations and disproportionately burdened followers who shouldered the costs of such excessive incentives via increased product costs.<sup>79</sup> Instances where ‘Beauty Gurus’ failed to disclose sponsorships were seen as ‘betraying’<sup>80</sup> followers’ trust by prioritising personal financial benefits over community interests.

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journalist’s complaint primarily due to the absence of contextual cues distinguishing the videos’ commercial nature from the vloggers’ typical editorial style.

<sup>75</sup>ASA and CAP Annual Report 2014 (1 April 2015) 19 <<https://www.asa.org.uk/resource/asa-and-cap-annual-report-2014.html>> accessed 6 March 2024.

<sup>76</sup>Rulings on *Unleashed PR Ltd IAW Marnie Simpson* (25 October 2017) and *Diamond Whites IAW Marnie Simpson* (25 October 2017). To prevent cluttering the footnotes with multiple links, URLs and dates of last access of the ASA rulings analysed (Oct 2017 – Apr 2024) have been listed in the accompanying appendix. This helps maintain concise and focused footnotes, preventing readers from being inundated with several links. Older rulings included for contextual purposes are cited in the usual manner.

<sup>77</sup>The Table draws upon data from ASA Annual Reports published since 2017. For the latest, see ASA Annual Report 2024 (11 April 2024) <<https://www.asa.org.uk/resource/complaints-and-cases-in-context-annual-report-2023.html>> accessed 28 April 2024. A ‘case’ refers to an ad/ad campaign the ASA received complaints about (one case can attract several complaints).

<sup>78</sup>Cocker et al (n 47) 1866–68.

<sup>79</sup>ibid 1862.

<sup>80</sup>Rebecca Mardon et al, ‘YouTube Beauty Gurus and the Emotional Labour of Tribal Entrepreneurship’ (2018) 92 *Journal of Business Research* 443, 448.

**Table 1.** Number of SMI-cases against the total of online cases resolved by the ASA.

	Total of online cases resolved	Number of cases involving influencers (Websites, social media, or apps)	Proportion of cases involving influencers (%)
2017	10,310	1,125	10.9%
2018	14,257	1,779	12.5%
2019	14,775	3,670	24.8%
2020	14,512	3,355	23.1%
2021	14,558	3,648	25.1%
2022	14,683	4,044	27.5%
2023	17,174	3,894	22.6%

The ASA generally upholds transparency in this context by enforcing its advertorial rules,<sup>81</sup> requiring appropriate disclosures where a brand: (a) paid an SMI monetarily or in kind (e.g. exchanging promotional prowess for complimentary luxurious hotel stays); *and* (b) exerted any editorial control or veto over the content (e.g. through pre-scripted messages, pre-posting content clearance). Recent adjudications have markedly relaxed the ‘payment plus control’ test.<sup>82</sup> For instance, an influencer’s undisclosed TikTok post, even though outside the bounds of her ambassadorship agreement to promote on Instagram the world-famous luxury hotel *Savoy* and unapproved by Fairmont (the managing company), was deemed an advertorial – and thus subject to regulatory scrutiny – due to its close resemblance to other paid Instagram ads and concurrent timing of publication.<sup>83</sup> One implication of this loose interpretation is that very few cases are dismissed (or referred to other bodies) for failing to meet the criteria, effectively expanding oversight to include more influencers. Notably, the ASA consistently holds brands and partnered SMIs equally responsible for inadequate disclosures (a pattern observed across the various forms of malpractice discussed below), recognising influencers’ agency in shaping the larger construction of the brand and the online communities in which they are situated.

### ***Exaggerated product efficacy and visual alternation techniques***

This sub-category of promo-masquerade goes beyond fabricated visuals portraying influencers amidst glamorous backdrops (e.g. digitally transplanted into picturesque streets they have never trodden) or meticulously crafted personas divorced from reality,<sup>84</sup> and spotlights SMI practices that

<sup>81</sup>CAP Code, Rules 2.1, 2.3–2.4. For a detailed analysis of the application of the advertorial test in the ASA’s decision-making, see Antoniou, ‘Advertising Regulation and Transparency in Influencers’ Endorsements on Social Media’ (n 11) and for a critique of the test’s vulnerabilities, see Antoniou, ‘Navigating Freezones in the Influencerdom’ (n 17) 14–16.

<sup>82</sup>Antoniou, ‘Advertising Regulation and Transparency in Influencers’ Endorsements on Social Media’ (n 11) 195–201; House of Commons DCMS Committee, *Influencer culture: Lights, camera, inaction?* ASA System and CMA Responses to the Committee’s Twelfth Report of Session 2021–22 (HC 2022–23, 610) 4.

<sup>83</sup>Ruling on *Accor (UK) Ltd* (11 October 2023).

<sup>84</sup>Čop and Culiberg (n 41); Von Mettenheim and Wiedmann (n 43).



misrepresent product effects in the pursuit of a flawless, ‘picture perfect’ aesthetic. A telling instance is found in Aimee Crowder’s TikTok post where she overstated the efficacy of a lip plumper, falsely suggesting a lasting physiological effect on lip volume, rather than a temporary cosmetic enhancement.<sup>85</sup> This trend of amplified product claims is compounded by using beauty filters associated with cosmetics and personal care items. Such practices give rise to contrived narratives that clash with the authenticity of SMIs’ ‘own personal expressions’,<sup>86</sup> a quality often cherished by their followers.

For example, SMIs have been found to apply in-app filters like ‘Perfect Tan’, misleading followers about the performance capabilities of products like make-up pallets, tanning lotions etc.<sup>87</sup> The ads themselves conveyed skin enhancing effects but the filters, which were directly relevant to the products’ claimed performance, materially exaggerated their efficacy. Followers may struggle to distinguish between images representing actual product outcomes and images showing filter effects, particularly when advanced AI-powered modification tools are employed (e.g. TikTok’s ‘Bold Glamour’ feature known for its transformative real-time facial alterations).<sup>88</sup> Followers’ expectations to experience similar results to an SMI’s appearance in the ad can therefore be easily frustrated.

However, using filters to masquerade a product’s genuine capabilities is merely a recycled tactic in modern packaging. Advertisers have long employed editing tools like airbrushing to showcase products favourably and consumers normally anticipate a touch of glamour in beauty product ads. Historically, the ASA has regulated cosmetic products commercials using rules against misleading production techniques. For instance, a 2012 L’Oréal anti-wrinkle cream ad featuring Oscar-winner Rachel Weisz was banned for substantially altering her complexion to appear smoother.<sup>89</sup> The regulatory stance on beauty products and cosmetics has remained steadfast: pre-production enhancements and post-retouching should represent what consumers can obtain from the product. While the CAP Code does not expressly mandate disclosure of social media filters, it is implicit that

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<sup>85</sup>Ruling on *D&A Cosmetics Ltd* (22 November 2023).

<sup>86</sup>Djafarova and Rushworth (n 2), Anne Martensen et al, ‘How Citizen Influencers Persuade their Followers’ (2018) 22(3) *Journal of Fashion Marketing and Management* 335, 341.

<sup>87</sup>Rulings on *Skinny Tan IAW Elly Norris* (3 February 2021); *We Are Luxe Ltd t/a Tanologist Tan IAW Cinzia Baylis-Zullo* (3 February 2021); *BPerfect Ltd* (21 July 2021) and *Charlotte Dawson* (15 February 2023).

<sup>88</sup>Jess Weatherbed and Mia Sato, ‘Why won’t TikTok Confirm the Bold Glamour filter is AI?’ *The Verge* (2 March 2023) <<https://www.theverge.com/2023/3/2/23621751/bold-glamour-tiktok-face-filter-beauty-ai-ar-body-dismorphia>> accessed 3 March 2023.

<sup>89</sup>ASA Ruling on *L’Oréal (UK) Ltd t/a L’Oréal Paris* (1 February 2012) <<https://www.asa.org.uk/rulings/loral-uk-ltd-a11-171059.html>> accessed 28 March 2023; see also similar (non-SMI-related) rulings against *Clinique Laboratories Ltd* (16 October 2013) <<https://www.asa.org.uk/rulings/Clinique-Laboratories-Ltd-A12-209011.html>> accessed 28 March 2023, *Beiersdorf UK Ltd t/a NIVEA* (28 August 2013) <<https://www.asa.org.uk/rulings/Beiersdorf-UK-Ltd-A13-231689.html>> accessed 28 March 2023; and more recently against *Coty UK Ltd* (19 April 2017) <<https://www.asa.org.uk/rulings/coty-uk-ltd-a16-367087.html>> accessed 28 February 2024.

their use should be avoided if followers are given a false impression about a product's likely capabilities. The adverts' effect can also be exacerbated by the lack of transparency regarding an SMI's commercial agenda.<sup>90</sup>

Linked to the distorting effects of beautifying filters is the amplification of stereotypical perceptions of aesthetics. For example, influencers like Lauren Goodger and Georgia Harrison have been found to promote weight-loss products on Instagram with retouched images that portrayed unnaturally thin waists, thereby idealising unattainable body figures.<sup>91</sup> Some countries, like Norway, require standardised labels on retouched ads to curb 'body pressure'<sup>92</sup> affecting young people's low self-esteem. Yet, there are concerns that this legal intervention may inadvertently escalate pressure on SMIs to undergo cosmetic surgery in pursuit of idealised beauty expectations. The UK's proposed Digitally Altered Body Images Bill, which would require a logo indicating digitally altered body proportions (similar to the P logo for TV product placement),<sup>93</sup> failed to progress through Parliament.<sup>94</sup> Industry players like the UK arm of Ogilvy, a leading global advertising agency, have voluntarily banned retouched images in their SMI network, acknowledging the potential harm caused by such 'staged content'.<sup>95</sup> The analysis below returns to associated concerns over influencers promoting unattainable lifestyles and damaging gender stereotypes.

### ***Irresponsibly administered promotions***

This final promo-masquerade sub-category, which has intriguingly eluded prior scholarly scrutiny, concerns prize promotions where SMIs' omissions and misrepresentations muddled followers' understanding and expectations of what was truly on offer and hindered their ability to make informed choices.

Specifically, promo-masquerade in this domain surfaces through 'give-away'<sup>96</sup> campaigns where SMIs lacked resources to manage promotions, resulting in *withholding prizes from eligible participants*. For instance, an

<sup>90</sup>E.g., Ruling on *BPerfect Ltd* (21 July 2021) and *Charlotte Dawson* (15 February 2023).

<sup>91</sup>Ruling on *Boom Bod Ltd* (23 October 2019) and *Protein Revolution Ltd* (23 October 2019).

<sup>92</sup>Marketing Act 2009, as amended in July 2022; see Gabriel Geiger, 'Norway Law Forces Influencers to Label Retouched Photos on Instagram' *Vice* (29 June 2021) <<https://www.vice.com/en/article/g5gd99/norway-law-forces-influencers-to-label-retouched-photos-on-instagram>> accessed 28 February 2024.

<sup>93</sup>Ofcom Code, Section 9, Rule 9.14.

<sup>94</sup>Bill 227 2021–22 received a First Reading on 22 February 2022, but the 2021–2022 Parliament session was prorogued and it made no further progress. For a similar recommendation concerning digitally altered SMI content, see House of Commons, Health and Social Care Committee, *The impact of body image on mental and physical health* (HC 22–23 HC 114) paras 9 and 66.

<sup>95</sup>Hannah Bowler, 'Ogilvy will no Longer Work with Influencers who Edit their Bodies or Faces for Ads' *The Drum* (London, 7 April 2022) <<https://www.thedrum.com/news/2022/04/07/ogilvy-will-no-longer-work-with-influencers-who-edit-their-bodies-or-faces-ads>> accessed 24 February 2024.

<sup>96</sup>This is a popular marketing tactic where an individual (often an SMI) or organisation offers something for free, usually to generate interest around a product or service, create awareness, or build engagement. The ultimate purpose is to boost sales by reaching targeted audiences, incl. existing customers, social media followers, or potential new customers unfamiliar with a brand.

SMI failed to deliver a £250 voucher from a fast-fashion retailer without justification and lacked evidence of distributing three out of four prizes to a winner who received none.<sup>97</sup> Similarly, a DIY and design influencer violated prize promotion rules in an Instagram giveaway by failing to provide a promised ‘gorgeous bed’, despite purported attempts to contact the provider.<sup>98</sup> Another instance involved luxury freebies to followers, but lacked evidence of announcing winners or actually awarding prizes.<sup>99</sup> In other words, the featured SMIs could not be *seen* to have treated participants fairly and responsibly.

Another type of malpractice in this sub-category involves cases where prizes *were* awarded but *in violation of the laws of chance*.<sup>100</sup> For instance, Molly-Mae Hague’s Instagram giveaway lacked evidence of random selection of shortlisted participants and prize allocation to genuine winners.<sup>101</sup> Similarly, in an ice-cream retailer’s prize draw, most winners were understood to be influencers, some of whom were previously affiliated with that company.<sup>102</sup> Another noteworthy example is a \$100,000 Twitter prize draw run by influencer Stephen Bear before his imprisonment for image-based sexual abuse.<sup>103</sup> Followers were induced to participate in a vanity exercise by posting compliments with the hashtag #internationalplayboy, but there was no evidence that Bear picked a winner from a pool of valid entries. It was speculated that Bear’s partner at the time was the winner.<sup>104</sup>

Promo-masquerade in this context also comprises instances where SMIs *failed to disclose upfront significant conditions in prize draws*. For example, a vlogger’s YouTube ad enthusiastically praised a skin highlighter without revealing its limited availability and potential substitution with other items ranging from £34 to just £2.99 in value.<sup>105</sup> Tyne-Lexy Clarkson’s Instagram Stories exaggerated raffle odds of winning as ‘insane’ and ‘incredible’ while omitting crucial details about the claimed charitable contributions of the advertised business.<sup>106</sup> Further, a giveaway competition on Molly-Mae Hague’s (known for recurrent breaches)<sup>107</sup> and her partner’s joint Instagram

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<sup>97</sup>Ruling on *Briley Powell* (18 August 2021); see also a similar adjudication concerning a prize draw run by a fitness trainer on Instagram: Ruling on *DT Fitness* (11 January 2023).

<sup>98</sup>Ruling on *Persons Unknown t/a Luxsleeps* (18 March 2020).

<sup>99</sup>Ruling on *Collab House Ltd* (21 September 2022).

<sup>100</sup>CAP Code, Rule 8.24.

<sup>101</sup>Ruling on *Molly-Mae Hague t/a mollymaehague* (3 March 2021).

<sup>102</sup>Ruling on *Yolé Global Pte Ltd* (22 December 2021).

<sup>103</sup>CPS Press Release, ‘Reality TV Star Stephen Bear Jailed for Posting “Revenge Porn”’ (3 March 2023) <<https://www.cps.gov.uk/east-england/news/reality-tv-star-stephen-bear-jailed-posting-revenge-porn>> accessed 24 May 2024.

<sup>104</sup>Ruling on *Stephen Bear t/a stevie bear* (30 March 2022).

<sup>105</sup>Ruling on *The Hut.com Ltd* (1 December 2021).

<sup>106</sup>Ruling on *Clarkson Ltd t/a* (12 October 2022).

<sup>107</sup>The SMI and their brand have had three rulings against them for transparency breaches (8 January 2020, 13 July 2022, 21 December 2022) and two for mishandling prize promotions (3 March 2021 and 30 November 2022).

account about their renovated mansion featured confusing and haphazard rules, and failed to specify UK-only eligibility.<sup>108</sup> This not only impeded the reliable identification of valid entrants but also significantly impacted participants' decision-making regarding entry.

Overall, the pervasive issue across all instances of promo-masquerade in this concluding sub-category is a manifest lack of robust prize administration procedures and an apparent disregard for due diligence, failing to assure followers that decisions are grounded in informed fact-finding and not arbitrary whims.

### **Risk-fluence**

SIMs leverage personal narratives, often centred around self-reported developmental journeys and anecdotal evidence, the authenticity of which is difficult to validate. While relatively inconsequential in fields like fashion, SMI content poses greater concerns in health and wellness sectors, particularly when it ventures into the area of illegality. The theme of 'risk-fluence' puts the focus squarely on SMI ads that expose followers to the inherent adverse effects of unauthorised health and nutrition claims or prohibited and age-restricted items.

### **Impermissible health and nutrition claims**

Health claims concern the relationship between a food/ingredient and health (e.g. 'calcium helps maintain strong bones'), while nutrition claims pertain to a food's nutritional benefit, (e.g. 'high-fibre'). Such claims are judged based on consumers' likely interpretation, rather than advertiser intent. Only claims listed on the Great Britain Nutrition and Health Claims Register are permitted under the CAP Code.<sup>109</sup> While IM cannot reasonably be expected to promote balanced diets like public authorities, it should not undermine progress towards followers' dietary improvement by causing confusion.<sup>110</sup>

The body of rulings studied reveals SMI ads making unauthorised health and nutrition claims about food supplements (e.g. 'Ketones ... help maintain healthy joint mobility' or chewable gummies treating sleep disorders and

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<sup>108</sup>Ruling on *Molly Maison* (30 November 2022): the SIMs offered extra entries for certain actions (e.g., by sharing the promotional post as an Instagram Story) but were unable to identify qualifying bonus entries, notably entrants who shared the post from private accounts did not enhance their chances of winning the prize.

<sup>109</sup>The legal framework underpinning the Code (Section 15) is Regulation (EC) 1924/2006 of the European Parliament and the Council of 20 December 2006 on nutrition and health claims made on foods (retained after Brexit as UK law). Regulation 1924/2006 operates within the context of Regulation 178/2002, the food safety provisions of which are enforced by the Food Safety Act 1990 and the General Food Regulations 2004. The latter make it an offence to falsely describe any food or provide misleading information regarding its nature, substance, or quality.

<sup>110</sup>CAP Code, Section 15 (Principle).

anxiety)<sup>111</sup> and weight maintenance;<sup>112</sup> impermissible claims of disease prevention or cure<sup>113</sup> (e.g. inflammation or skin and auto-immune conditions);<sup>114</sup> and promises of specific weight-loss for slimming products in breach of the Code (e.g. ‘You can lose up to 7lbs in 7 days with Thermo-syn’).<sup>115</sup> Other posts misrepresented authorised health claims (e.g. by exaggerating a claim for the dietary fibre supplement glucomannan)<sup>116</sup> or even promoted novel food that lacked UK marketing authorisation and was therefore illegal to sell.<sup>117</sup>

SMI breaches were also observed in relation to impermissible fitness and weight-control claims about alcohol.<sup>118</sup> Code violations occurred either through *direct* suggestions of low-calorie and health-promoting properties of drinks (‘You guys know I love a drink, but I also really care about my well-being’)<sup>119</sup> or *indirectly* through accompanying statements (e.g. ‘Im [sic] on my weight-loss journey’ and ‘only 63 calories a can’)<sup>120</sup> and creative wordplay (e.g. Adam Cuthbertson’s Instagram Story for The Lowcal Lager implying beneficial nutritional properties due to its low-calorie content through the term ‘Lowcal’).<sup>121</sup>

### **Prohibited products**

Certain products are barred from advertising due to legal restrictions or potential risks to public health and wellbeing. Risk-fluence concerns about prohibited products were identified in two areas: medicines and e-cigarettes (with no documented instances of tobacco products).

**Medicines:** In the UK, medicines advertising is regulated by the Human Medicines Regulations 2012 (HMRs), which apply to digital communications and ‘any person’ promoting a medicine, not just pharmaceutical companies. Whilst over-the-counter, general sales and pharmacy medicines can be publicly advertised with valid licensing and marketing

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<sup>111</sup>Ruling on *Pruvit Ventures Inc* (7 July 2021); Ruling on *JST Nutrition Ltd* (19 May 2021); Ruling on *South African Foods Ltd t/a Candy Store 4 You* (6 December 2023) and Ruling on *Supreme CBD Ltd* (14 February 2024).

<sup>112</sup>Ruling on *Not Guilty Food Co Ltd t/a The Skinny Food Co* (3 April 2024).

<sup>113</sup>Ruling on *JST Nutrition Ltd* (19 May 2021).

<sup>114</sup>Ruling on *Pruvit Ventures Inc* (7 July 2021); Ruling on *South African Foods Ltd t/a Candy Store 4 You* (6 December 2023).

<sup>115</sup>Such claims are tightly controlled under the CAP Code (Rule 13.10.1); see Ruling on *The White Star Key Group t/a Skinny Caffe IAW Jemma Lucy* (31 July 2019); Ruling on *Boom Bod Ltd* (23 October 2019); Ruling on *Pruvit Ventures Inc* (7 July 2021); and Ruling on *SkinnyJab Ltd t/a Skinny Jab* (7 October 2020).

<sup>116</sup>Ruling on *Boom Bod Ltd* (23 October 2019).

<sup>117</sup>Ruling on *Pruvit Ventures Inc* (7 July 2021).

<sup>118</sup>Under Rule 18.17 of the CAP Code, only ‘low-alcohol’, ‘reduced alcohol’ and ‘reduced energy’ nutrition claims, or those with equivalent meaning, are permitted for alcohol products.

<sup>119</sup>Ruling on *Served Drinks Ltd t/a Served* (6 July 2022); Ruling on *The Lowcal Ltd* (23 December 2021); and Ruling on *Wild Drinks Group Ltd t/a Whisp Drinks* (29 June 2022).

<sup>120</sup>Ruling on *Wild Drinks Group Ltd t/a Whisp Drinks* (29 June 2022).

<sup>121</sup>Ruling on *The Lowcal Ltd* (23 December 2021).

authorisation,<sup>122</sup> ads likely to encourage the use of licensed prescription-only medicines (POMs) are prohibited under the Regulations.<sup>123</sup> Influencers reportedly promoting unlicensed injectable hormones associated with cancerous effects ('toxic tans')<sup>124</sup> and unauthorised appetite stimulants (e.g. Apetamin) marketed as a non-surgical way of achieving a celebrity hourglass physique<sup>125</sup> are of particular concern, though no such instances were documented in the reviewed sample of rulings.

Companies' social media timelines have been found to illegally promote **prescription-only** botulinum toxin injectables (known as Botox), vitamin B12 deficiency remedies ('vitamin shots'),<sup>126</sup> hay fever steroids injections<sup>127</sup> and weight-loss POMs<sup>128</sup> ('skinny pens'), along testimonials that often contradict proper nutritional practice. Several SMIs alike have jumped on the bandwagon but failed to inject a dose of compliance into their ads. For instance, influencer Carl Woods' Instagram Stories featured him undergoing facial 'anti-wrinkle' injections, endorsing the treatment's efficacy and directly referencing a Botox brand ('Allergan') contrary to the HMRS and the CAP Code.<sup>129</sup> Gemma Collins' post for a weight-loss treatment provider was banned for promoting Ozempic,<sup>130</sup> a licensed prescription-only medicine that is primarily designed for diabetes but was re-purposed as a miracle diet aid. This is indicative of the link between promotion of POMs for 'off-label' uses and societal pressures for idealised body standards, a trend amplified during the pandemic due to prolonged periods of sedentary lifestyles. Although such sensitive appearance-related issues (and associated health risks) predate the COVID-19 outbreak, it is within this broader context of a public health emergency that SMIs' promotion of weight-loss inducing POMs should be understood.

Importantly, SMIs are prevented from endorsing medicines in marketing communications due to their status as a new breed of modern celebrities.<sup>131</sup>

<sup>122</sup>The specific licensing system for medicines is operated by the Medicines and Healthcare products Regulatory Agency (MHRA), the UK's statutory regulator for medicines, medical devices etc.

<sup>123</sup>HMRS 2012, Regs 284 (POMs) and 303 (Offences) but note the exception under Reg 292 concerning approved vaccination campaigns; see also CAP Code, Rule 12.12.

<sup>124</sup>Anna Collinson and Eleanor Layhe, "'Dangerous' Tanning Products Promoted by Influencers' *BBC News* (London, 17 March 2022) <<https://www.bbc.co.uk/news/health-60348334>> accessed 14 April 2022.

<sup>125</sup>Anna Collinson, 'Apetamin: Instagram Criticised Over Weight-gain Drug' *BBC News* (3 May 2021) <<https://www.bbc.co.uk/news/health-56930654>> accessed 13 February 2024.

<sup>126</sup>Enforcement Notice: *advertising of vitamin shots (Coronavirus/Covid-19)* (ASA and MHRA, 28 May 2020) <<https://www.asa.org.uk/resource/enforcement-notice-advertising-vitamin-shots.html>> accessed 8 March 2024.

<sup>127</sup>Enforcement Notice: *advertising of Kenalog injections* (ASA and MHRA, 4 August 2022) <<https://www.asa.org.uk/resource/enforcement-notice-advertising-of-kenalog-injections.html>> accessed 8 March 2024.

<sup>128</sup>Enforcement Notice: *advertising of prescription-only weight-loss treatments* (ASA and MHRA, 28 January 2021) <<https://www.asa.org.uk/resource/enforcement-notice-advertising-of-prescription-only-weight-loss-treatments.html>> accessed 8 March 2024.

<sup>129</sup>Ruling on *LIFT Aesthetics t/a lift.aesthetics* (17 May 2023).

<sup>130</sup>Ruling on *SkinnyJab Ltd t/a Skinny Jab* (7 October 2020).

<sup>131</sup>Gaenssle and Budzinski (n 31).

The prohibition is found under Regs 289(c) and 303 of the HMRs, which ban medicine adverts featuring recommendations by persons who could encourage product use ‘because of their celebrity’,<sup>132</sup> and extends to **over-the-counter** drugs. Breaches of this type were also observed in the sample studied, notably in the case of a ‘parent influencer’ who promoted non-prescription insomnia tablets, appealing to overwhelmed parents seeking self-care.<sup>133</sup> Similarly, Carl Woods in his Botox treatment recommendations qualified as a celebrity under the HRMs given that he also had, according to the regulator, ‘the attention of a large audience’.<sup>134</sup> The precise threshold (or audience reach) for celebrity status remains ambiguous under this criterion, yet coupled with the ASA’s broad interpretation of the term ‘celebrity’ under the HMRs, it effectively puts medicines firmly out of SMIs’ promotional grasp.

**E-cigarettes:** Several risk-fluence posts within the examined corpus concerned the violation of the Tobacco and Related Products Regulations 2016 through advertising nicotine-containing e-cigarettes, which is prohibited unless approved as medicinal products.<sup>135</sup> Despite platforms’ branded content policies against such promotions,<sup>136</sup> SMIs often disregard disclosure tools mandated by platforms’ terms of services,<sup>137</sup> which could pre-empt such postings. A narrow exception under the Regulations applies to factual – but not promotional – information on certain media channels, notably on retailers’ own websites, as consumers actively seek out that information by visiting the site.<sup>138</sup> SMIs’ activity raises the question of whether non-paid-for placements on their own social media pages can be deemed analogous to a retailer’s own website, warranting a similar exemption for their posts.

The prevailing view is that unlicensed nicotine-containing e-cigarettes cannot be promoted through public social media accounts unless factual content is confined to a ‘private’ profile visible solely to followers. Platform mechanics are key in this regard. For instance, due to platform design

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<sup>132</sup>See also CAP Code, Rule 12.18.

<sup>133</sup>Ruling on *Sanofi UK IAW This Mama Life* (3 July 2019).

<sup>134</sup>Approximately 230,000 followers at the time; see Ruling on *LIFT Aesthetics t/a lift.aesthetics* (17 May 2023).

<sup>135</sup>Part 7, Regs 42–43 and 48 (Offences); CAP Code, Rule 22.12. The Regs implement Directive 2014/40/EU (on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products).

<sup>136</sup>*Enforcement Notice: vaping products on TikTok* (ASA, 29 June 2023) <<https://www.asa.org.uk/resource/enforcement-notice-vaping-products-on-tik-tok.html>> accessed 8 March 2024.

<sup>137</sup>E.g., Ruling on *BMORvape and Amelia Beavis* (11 October 2023); Ruling on *HQD Tech UK* (10 May 2023); Ruling on *Green Fun Alliance Ltd t/a Elf Bar* (10 May 2023); Ruling on *Voofoo International Inc* (8 November 2023) and Ruling on *Global Brands Ltd* (14 March 2024).

<sup>138</sup>No statutory definition of what constitutes factual versus promotional content exists. A case-by-case approach is typically adopted; *ASA Guidance on e-cigarette advertising prohibition* (ASA, 31 January 2017) 5–7 <<https://www.asa.org.uk/resource/electronic-cigarette-advertising-prohibition.html>> accessed 8 March 2024.

features, TikTok's public posts can be viewed by all visitors to the website and distributed beyond those users who have signed up to follow a certain account. Unsolicited non-paid-for ads on TikTok's algorithmically driven 'For You' feed, which 'pushes' content to users without having opted in to receive the message they contained, do not equate to active information seeking about e-cigarettes. Consequently, advertising on an SMI's public TikTok account is distinct from a retailer's own website and thus the restriction on unlicensed nicotine-containing e-cigarettes extends to such TikTok posts, where neither promotional nor factual content is permitted.<sup>139</sup> The same would apply to Instagram,<sup>140</sup> whose 'Feed' page delivers 'suggested'<sup>141</sup> posts deemed relevant to users' interests.

### ***Irresponsible marketing of age-restricted products***

Risk-fluence extends to SMIs' failure to demonstrate high levels of care when handling age-restricted products, potentially leading to harmful consequences among vulnerable audiences. The rulings studied highlight concerns about SMIs' compliance in respect of targeting and placement as well as creative content. Alcohol-related ads dominate this risk-fluence sub-set, though primarily in relation to creative choices. Alcohol marketing is not subject to sector specific legislation in England, Wales and NI,<sup>142</sup> but SMIs' disregard of related advertising standards necessitates a robust consideration of the contours of their commercial activity and suitability to endorse such products.

Generally, placement and targeting rules require that age-restricted marketing must not be directed at children (under-16s) and young people (aged 16 and 17), depending on the products advertised (the 'directed at' rule).<sup>143</sup> However, paid content published online by third-party users on behalf of a marketer, like influencer content, tends to be untargeted, so advertisers are usually required to demonstrate through audience data (whose reliability may vary across media) that the protected age group is unlikely to comprise more than 25% of the total audience (the '25% rule'). Some SMIs in the sample reviewed demonstrated an appreciation of their followers'

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<sup>139</sup>Ruling on *Green Fun Alliance Ltd t/a Elf Bar* (10 May 2023); Ruling on *HQD Tech UK* (10 May 2023); Ruling on *Vapes-Bars Ltd* (13 September 2023); Ruling on *ZOVOO (Shenzhen) Technology Co Ltd* (13 September 2023); Ruling on *Innofly HK Ltd* (13 September 2023); Ruling on *BMORvape and Amelia Beavis* (11 October 2023); Ruling on *Vopoo International Inc* (8 November 2023); Ruling on *Vapresso* (8 November 2023); Ruling on *Geekvape Electronic Cigarettes (UK) Ltd* and Ruling on *Cloud City Vapez UK Ltd* (22 November 2023).

<sup>140</sup>E.g., Ruling on *Relx (UK) Ltd* (29 June 2022), concerning Louis Shaw's Instagram Story featuring factual and promotional claims for unlicensed e-cigarettes.

<sup>141</sup>Instagram Help Center, 'How Instagram Feed Works' <[https://help.instagram.com/1986234648360433/?helpref=hc\\_fnav](https://help.instagram.com/1986234648360433/?helpref=hc_fnav)> accessed 29 February 2024.

<sup>142</sup>Cf the Alcohol etc. (Scotland) Act 2010 which introduced several restrictions on discounts and special offers related to alcohol products.

<sup>143</sup>ASA, *Age-restricted ads online: advertising guidance (non-broadcast)* <<https://www.asa.org.uk/static/44dc1935-0766-4378-91171e6954ae560a/Age-restricted-ads-online-targeting-guidance.pdf>> accessed 8 March 2024.



demographics and the importance of appropriate targeting in relation to products high in fat, salt and sugar,<sup>144</sup> gambling,<sup>145</sup> and alcohol.<sup>146</sup> However, difficulties arise where a demographic breakdown for an SMI's audience figures cannot be cleanly assessed, e.g. where an SMI does not operate an account with dedicated age-restriction or interest-based platform tools. In the absence of such safeguards, an SMI's wider appeal and the way in which users normally interact with the channel where the influencer chose to advertise become material. For example, an algorithmically-driven landing page (e.g. TikTok's 'For You' feed) could surface an ad for an age-restricted product and deliver it to under-age users based on their interests and engagement patterns, even if they did not follow the creator of the content featuring the ad.<sup>147</sup>

Unlike the more defined targeting restrictions, the dynamic nature of advertising, driven by rich creativity and context-specificity, poses challenges in setting exhaustive rules on what can be shown in ads for age-restricted products (this also prompts questions on how the proposed OAP measures – mentioned earlier – will tackle the nuanced context of ad content). The sample studied reveals several underage (i.e. under 25 years old) or youthful-looking SMIs drinking alcohol in breach of the CAP Code (Rule 18.16).<sup>148</sup> Particularly worrying is the active encouragement of drinking, exemplified by TikToker Rosie Breen's endorsement of Whisp Drinks' hard seltzer, stating that it 'actually get[s] you drunk'.<sup>149</sup> Some posts have gone further by condoning excessive drinking (e.g. alcohol consumed straight from the bottle and without control)<sup>150</sup> or glorifying hangovers as part of an enjoyable experience.<sup>151</sup> Slang hashtags (e.g. '#GETLIT', '#forpres-tonight')<sup>152</sup> and lyrics suggesting heavy intoxication (e.g. 'I'll be fucked up if you can't be right here') amplified portrayals of irresponsible drinking.<sup>153</sup> Other creative interventions, like contrasting reactions to non-alcoholic

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<sup>144</sup>Ruling on *Ferrero UK Ltd* (4 July 2018).

<sup>145</sup>Ruling on *888 UK Ltd* (5 January 2022); Ruling on *Vivaro Ltd t/a BetBull.com* (30 May 2018).

<sup>146</sup>Ruling on *Heineken Enterprise Ltd* (4 September 2019); Ruling on *Global Brands Ltd IAW Luke Mabbott* (2 September 2020) and Ruling on *Halewood International Ltd t/a Tequila Rose* (20 November 2019).

<sup>147</sup>Ruling on *The Muff Liquor Company* (8 February 2023); Ruling on *Global Brands Ltd* (30 September 2023).

<sup>148</sup>Ruling on *Sazerac UK Ltd* (8 January 2020); Ruling on *Wild Drinks Group Ltd t/a Whisp Drinks* (29 June 2022); Ruling on *Signature Pubs Ltd t/a The Spiritualist* (7 September 2022); Ruling on *Halewood International Ltd t/a Tequila Rose* (20 November 2019); Ruling on *Litty Liquor* (31 May 2023); and Ruling on *Global Brands Ltd* (30 September 2023). For an example in the context of smoking e-cigarettes, see Ruling on *HQD Tech UK* (10 May 2023), where the SMI was aged 19 at the time the ad was posted.

<sup>149</sup>Ruling on *Wild Drinks Group Ltd t/a Whisp Drinks* (29 June 2022).

<sup>150</sup>Rulings on *Global Brands Ltd* (30 September 2023 and 13 March 2024).

<sup>151</sup>Ruling on *Signature Pubs Ltd t/a The Spiritualist* (7 September 2022), where partying and crying with laughter emojis were added to the promotional text too.

<sup>152</sup>Ruling on *Litty Liquor* (31 May 2023) and Ruling on *Global Brands Ltd* (13 March 2024); 'pres' is derived from 'pre-drinks', namely drinking alcohol (usually at a faster pace) before heading out to a licensed revenue where further alcohol is consumed.

<sup>153</sup>Ruling on *The Muff Liquor Company* (8 February 2023).

and alcoholic beverages, implied alcohol's potential to precipitate mood enhancement and boost confidence.<sup>154</sup> In extreme cases, SMI ads unwisely linked alcohol with unsafe behaviours, as evidenced by 'The Archbishop of Banterbury's' Instagram post which showed alcohol being passed to car passengers.<sup>155</sup>

### **Mone-trapment**

Amid a worsening cost-of-living crisis, people are turning to an unlikely source for help: 'fin-influencers' sharing financial insights and investment recommendations. Genuine experts (e.g. ex-corporate lawyers and entrepreneurs) may help fill a void in the fundamentals of financial literacy.<sup>156</sup> However, concerns exist over self-proclaimed gurus,<sup>157</sup> whose content may entice followers with little appreciation of personal financial limitations into decisions (e.g. risky investments or irresponsible spending habits) often to their detriment.

SMI posts in the sample analysed highlight failures to substantiate profitability claims,<sup>158</sup> caution followers about investments' variable value,<sup>159</sup> or clarify risks associated with debt support. For example, SMIs hired by a lead-generating company that passed on consumers' details to third-party insolvency practitioners exaggerated the ease of debt reduction and withheld critical information about legally binding Individual Voluntary Arrangements.<sup>160</sup> An example of exploiting consumers' gullibility by downplaying important product features is seen in a post by the Gale twins which trivialised crypto-assets investments on lifestyle accounts targeting an audience lacking expertise in this volatile market.<sup>161</sup> Such posts imply effortless and risk-free investment opportunities without warning about associated tax implications, potentially exposing followers to substantial financial losses.

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<sup>154</sup> *ibid.*

<sup>155</sup> Ruling on *DNBA Entertainment Ltd* (13 July 2022).

<sup>156</sup> A PricewaterhouseCoopers (PwC) survey showed that millennials (born between the early 1980s and mid-1990s) exhibit inadequate financial knowledge compared to previous generations and are 'financially fragile'; see *Millennials and Financial Literacy: The Struggle with Personal Finance* (PwC 2015) 6 <<https://www.pwc.com/us/en/about-us/corporate-responsibility/assets/pwc-millennials-and-financial-literacy.pdf>> accessed 13 February 2024.

<sup>157</sup> Financial Conduct Authority, 'FCA and ASA team up to warn finfluencers of risks of promoting illegal "get rich quick" schemes' (FCA, 6 April 2023) <<https://www.fca.org.uk/multimedia/fca-and-asa-team-warn-finfluencers-risks-promoting-illegal-get-rich-quick-schemes>> accessed 7 March 2024.

<sup>158</sup> See e.g., Ruling on *Person(s) Unknown* (4 August 2021), where a foreign exchange Instagram advert on Lauren Goodger's Instagram account made unsubstantiated profitability claims for foreign exchange tips services.

<sup>159</sup> Ruling on *WeShop Holdings Ltd t/a WeShop* (19 July 2023), concerning three Instagram ads that encouraged followers to make purchases via a community-based shopping app as an inducement to obtaining shares but without any warning or disclaimer that the value of investments was variable.

<sup>160</sup> Ruling on *Ashtek Media Ltd t/a Ashtek Media* (2 June 2021).

<sup>161</sup> Ruling on *Elizabeth O'Donell* (7 September 2022).

Moreover, during the coronavirus emergency, there was a surge in irresponsible credit-borrowing, particularly fuelled by the promotion of delayed payment services. This posed a significant risk as consumers could misjudge affordability, potentially triggering a debt crisis, especially among online shoppers unfamiliar of the implications of ‘buy now, pay later’ schemes. In 2020, four SMIs’ posts endorsing a fintech company’s deferred payment service were banned for encouraging credit use for beauty and clothing products to uplift people’s mood during the lockdown.<sup>162</sup> Such non-essential purchases could, however, exacerbate financial strain. Other SMI ads, like one by Sam Gowland promoting betting tipsters as a way to achieve financial security,<sup>163</sup> contributed to risky behavioural addictions, including online gambling, especially amidst heightened social isolation, well-being anxiety and economic downturn.<sup>164</sup> Though not gambling themselves, such promotions facilitated it and contributed to a harmful environment that worsened risk factors for gambling disorders,<sup>165</sup> now recognised as a major public health concern.<sup>166</sup>

### **Stereo-scripting**

The rulings analysed evidence IM’s contribution to reinforcing harmful gender norms, impacting the development of traits and attitudes.<sup>167</sup> Far from merely acting as passive conduits for advertorials, certain SMIs have scripted into their curated narratives (consciously or unconsciously) content that amplifies stereotypical images of femininity or masculinity. Such endorsements, often characterised by idealised lifestyle standards, foster a ‘diet culture’<sup>168</sup> and body image dissatisfaction that is understood to link to low self-esteem, unhealthy eating habits and diminished quality of life.<sup>169</sup> While existing restrictions aim to mitigate ads’ harmful effects on self-perception,<sup>170</sup> enhanced oversight is necessary to prevent

<sup>162</sup>Ruling on *Klarna Bank AB* (23 December 2020).

<sup>163</sup>Ruling on *Person(s) unknown t/a TBM Enterprises and Thebettingman* (18 November 2020).

<sup>164</sup>Kat Ley, ‘Mental Health Crisis “leading to Alcoholism and Gambling”’ *The Times* (London, 16 April 2020) 7; Public Health England, *The impact of COVID-19 on gambling behaviour and associated harms* (September 2021) <[https://assets.publishing.service.gov.uk/media/6151afa38fa8f561075cae2a/Gambling\\_review\\_COVID\\_report.pdf](https://assets.publishing.service.gov.uk/media/6151afa38fa8f561075cae2a/Gambling_review_COVID_report.pdf)> accessed 1 March 2024.

<sup>165</sup>Steve Sharman et al, ‘Gambling in COVID-19 Lockdown in the UK: Depression, Stress, and Anxiety’ (2021) 12 *Frontiers in Psychiatry* DOI: 10.3389/fpsy.2021.621497.

<sup>166</sup>Paul Delfabbro and Daniel King, ‘On the Limits and Challenges of Public Health Approaches in Addressing Gambling-Related Problems’ (2020) 18(3) *International Journal of Mental Health and Addiction* 844.

<sup>167</sup>See further Alexandros Antoniou and Dimitris Akrivos, ‘Gender Portrayals in Advertising: Stereotypes, Inclusive Marketing and Regulation’ (2020) 12(1) *The Journal of Media Law* 78.

<sup>168</sup>Lindsay Parcell et al, ‘Effects of COVID-19 Specific Body Positive and Diet Culture Related Social Media Content on Body Image and Mood among Young Women’ (2023) 44 *Body Image* 1.

<sup>169</sup>Mental Health Foundation, *Body image (research report): how we think and feel about our bodies* (Mental Health Foundation 2019) <<https://www.mentalhealth.org.uk/our-work/research/body-image-how-we-think-and-feel-about-our-bodies>> accessed 7 March 2024; House of Commons, Women and Equalities Committee, *Changing the perfect picture: an inquiry into body image* (HC 2019–21 HC 274).

<sup>170</sup>CAP Code, Rule 4.9.

perpetuating damaging gender stereotypes in SMI content. Remarkably, ASA rulings in this theme failed to leverage existing rules against stereotypes, missing the opportunity to reinforce regulatory disapproval of such portrayals.

An exemplary case is found in an SMI advert featuring a casual tone with cheerful visuals and energetic soundbites to document the influencer's experience of undergoing breast augmentation surgery.<sup>171</sup> This light-hearted approach not only trivialised a serious surgical intervention related to body image but also reinforced societal norms tying a woman's worth to physical appearance, thereby perpetuating superficial ideals and unrealistic beauty standards. Similarly, ads for diet products featuring SMIs with slim physiques implied that individuals' emotional well-being could be enhanced through ongoing use of satiety enhancers, adding pressure to conform to idealised body shapes.<sup>172</sup> Another concerning example is an SMI's insensitive promotion of weight-loss supplements during pregnancy,<sup>173</sup> implicitly prioritising attractiveness over antenatal care. Also, SMI content depicting hyper-masculinity can adversely affect body-conscious young boys (irrespective of their weight or size) by unduly pressuring them to take extreme action in the pursuit of stereotypical bodily features. A fitness trainer's post, for example, presented an overly muscled physique of 14-year-old boy as desirable for someone of that age,<sup>174</sup> irresponsibly exploiting young people's body image insecurities.

The sample studied also contained SMI content that inappropriately sexualised or objectified women, such as a Facebook post promoting women's pyjamas seductively.<sup>175</sup> This portrayal not only deviated from the typical representation of how the product would typically be worn, but also reinforced the narrow idea that a woman's value hinges solely on her sexual allure, disregarding other qualities. Ads showcasing influencers' presence on OnlyFans (a subscription-based platform for adult-oriented content) exhibit a comparable tone. While images showcasing partially clothed physiques align with the platform's nature, a line is drawn between, on the one hand, irresponsibly placed content which leans into sexualisation through provocative styling, suggestive posing and coquettish expressions,<sup>176</sup> and on the other, responsibly targeted content which is conspicuously devoid of any degrading or objectifying undertones<sup>177</sup> (e.g. where an influencer poses in revealing yet not overtly sexual attire, akin to conventional promotional material used by mainstream lingerie or perfume brands).

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<sup>171</sup>Ruling on *Erdem Clinic* (3 January 2024).

<sup>172</sup>Ruling on *Boom Bod Ltd* (23 October 2019) and Ruling on *Protein Revolution Ltd* (23 October 2019).

<sup>173</sup>Ruling on *The White Star Key Group t/a Skinny Caffe IAW Jemma Lucy* (31 July 2019).

<sup>174</sup>Ruling on *JA Physique Ltd t/a jakeabbott07* (27 July 2022).

<sup>175</sup>Ruling on *Boux Avenue Ltd* (10 August 2022).

<sup>176</sup>Ruling on *Em Rose* (3 January 2024) and Ruling on *Rebecca Louise* (21 February 2024).

<sup>177</sup>Ruling on *Eliza Rose Watson t/a elizarosewatson* (23 August 2023).

## Other emerging issues

The issues addressed in this section merit attention given their implications on public health, environmental responsibility, and animal welfare. Though not directly arising from the analysed sample, they resonate with the central themes of malpractice introduced in this article, highlighting their relevance and resilience.

The emergence of so-called ‘patient influencers’, i.e. patient advocates or healthcare professionals, can constructively contribute to online patient communities by sharing disease self-management experiences, supporting awareness campaigns, and countering misinformation.<sup>178</sup> However, as pharmaceutical companies increasingly leverage the power of persuasion through SMI partnerships, challenges aligning with promo-masquerade and risk-fluence arise (e.g. claims about dosage validity, medication side effects etc.), effacing the boundaries between patient empowerment and deception in this loosely regulated space.<sup>179</sup> These concerns became particularly evident during the COVID-19 outbreak, when ‘alternative health influencers’<sup>180</sup> strategically targeted mothers to sow doubts about vaccine safety by appealing to the feminine ideal of primary caregivers uncorrupted by the medical establishment.<sup>181</sup>

Moreover, the proliferation of environmental performance claims raises concerns about promotional content ‘masquerading’ as genuine efforts to maximise environmental benefits. Existing advertising rules primarily target manufacturers, wholesalers, distributors, or retailers.<sup>182</sup> Whilst these may deter some SMIs from ‘greenwashing’, it is uncertain whether extant guidance can drive compliance among influencers who do not fit traditional business models and lack training on these complex matters.

Finally, the prevalence of pets in marketing has raised alarms. ‘Pet influencers’ who often showcase designer dog attire and accessories<sup>183</sup> may

<sup>178</sup>Erin Willis et al, ‘Communicating Health Literacy on Prescription Medications on Social Media: In-depth Interviews With “Patient Influencers”’ (2023) 25 *Journal of Medical Internet Research* DOI: 10.2196/41867.

<sup>179</sup>The British Pharmaceutical Industry Code of Practice outlines industry requirements, overseen independently by the Prescription Medicines Code of Practice Authority (PMCPA). However, the PMCPA’s social media guide offers minimal direction on influencer collaborations; PMCPA Social Media Guidance 2023 (26 January 2023) 16 <<https://www.pmcpa.org.uk/media/x2pbqzy1/pmcpa-social-media-guidance-2023.pdf>> accessed 5 March 2024.

<sup>180</sup>Stephanie Alice Baker, ‘Alt. Health Influencers: How Wellness Culture and Web Culture have been Weaponised to Promote Conspiracy Theories and Far-right Extremism during the COVID-19 Pandemic’ (2022) 25(1) *European Journal of Cultural Studies* 3.

<sup>181</sup>Stephanie Alice Baker and Michael James Walsh, ‘“A Mother’s Intuition: It’s Real and we have to Believe in it”: How the Maternal is used to Promote Vaccine Refusal on Instagram’ (2022) 26(8) *Information, Communication and Society* 1675.

<sup>182</sup>CMA, *Green Claims Code: Making Environmental Claims* (20 September 2021) <<https://www.gov.uk/government/publications/green-claims-code-making-environmental-claims>> accessed 7 March 2024; ASA, *Misleading environmental claims and social responsibility* (23 June 2023) <<https://www.asa.org.uk/resource/advertising-guidance-misleading-environmental-claims-and-social-responsibility.html>> accessed 7 March 2024.

<sup>183</sup>Kate Finnigan, ‘The Fashionable Dogs of Instagram’ *Financial Times* (London, 27 February 2021) 4.

inadvertently encourage practices congruent with the concept of risk-fluence such as: irresponsible ownership/breeding (e.g. impulse buying based on trends for specific aesthetic traits disregarding animal well-being), normalising questionable health practices (e.g. surgical alterations for aesthetic purposes) and partaking in ‘humorous’ yet risky activities (e.g. dangerous stunts).<sup>184</sup> The ASA’s emphasis on promoting animal welfare through appropriate portrayal of animals in SMI content is noticeably absent.<sup>185</sup>

## Recommendations for integrity-centric influence in brand communities

Except for instances of stereo-scripting, where the advertising watchdog missed opportunities to strengthen its stance against harmful stereotypes by fully utilising existing rules, the content and scope of the CAP Code rules engaged in the themes identified do not pose substantive concerns on their own. However, the findings underline the critical need for a significant policy overhaul and a more robust SMI standards framework that extends beyond mere recognisability of commercial communications. Scepticism surrounds, in particular, the timing and rigour of addressing SMIs’ undisclosed advertising. The proliferation of sponsored posts increasingly cluttering social feeds and a growing perception of social media turning into advertising dumping grounds have contributed to a pervasive sense of ‘influencer fatigue’.<sup>186</sup> Followers are now far less likely to be moved by undisclosed sponsored posts<sup>187</sup> and more adept at discerning the authenticity of SMI endorsements. Recent research revealed that online brand communities actively reinforced established community standards by exposing SMIs’ violations: members often referenced regulatory jargon, articulated ‘clearly and constructively’ what they considered acceptable,<sup>188</sup> and in some instances rallied together to report violations to the ASA as a form of retaliation against exploited intimacies for commercial gain.<sup>189</sup> After almost a decade of implementing transparency rules on social media, these indicators prompt a reassessment of priorities to consider other emerging trends in

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<sup>184</sup>British Veterinary Association, *Pets in advertising: A social concern* (BVA 2018) <[https://www.bva.co.uk/media/2971/bva\\_pets\\_in\\_advertising\\_2018.pdf](https://www.bva.co.uk/media/2971/bva_pets_in_advertising_2018.pdf)> accessed 8 March 2024.

<sup>185</sup>Existing guidance focuses mostly on transparency issues; see CAP News, ‘Fur Warning: The Rules that Apply to Pet Influencers’ (23 March 2023) <[https://www.asa.org.uk/news/fur-warning-the-rules-that-apply-to-pet-influencers.html?dm\\_i=4PDW,SZ32,5MDZIH,3M59C,1](https://www.asa.org.uk/news/fur-warning-the-rules-that-apply-to-pet-influencers.html?dm_i=4PDW,SZ32,5MDZIH,3M59C,1)> accessed 9 March 2024.

<sup>186</sup>Craig Carpenter and Mark Bonin, ‘To Win Friends and Influence People: Regulation and Enforcement of Influencer Marketing After Ten Years of the Endorsement Guides’ (2021) 23(2) *Vanderbilt Journal of Entertainment & Technology Law* 253, 276.

<sup>187</sup>See e.g., Mettenheim and Wiedmann (n 43) 55, who found that lack of disclosures was the ‘least detrimental’ violation that generated a ‘relatively low trust decrease’.

<sup>188</sup>Cocker et al (n 47) 1863; Cop and Culiberg (n 41) 58–59.

<sup>189</sup>Rebecca Mardon et al, ‘When Parasocial Relationships Turn Sour: Social Media Influencers, Eroded and Exploitative Intimacies, and Anti-Fan Communities’ (2023) 39(11–12) *Journal of Marketing Management* 1132, 1149.

SMI's non-compliance that are cursorily addressed by the industry and current policy.

The absence of an SMI-specific framework has triggered several soft-law measures to complement existing rules, but a fitness check of these initiatives shows their limited scope. For example, the European Advertising Standards Alliance (EASA), the coordinating body for European self-regulatory organisations, reminds SMIs of their general 'duty' to adhere to 'responsible' marketing practices, but its guidelines centre on ad disclosures.<sup>190</sup> The International Council for Advertising Self-Regulation (ICAS), representing all national self-regulatory bodies, has merely urged that 'consumers should be able to identify when a post by a social influencer is an ad'.<sup>191</sup> In the UK, the House of Commons influencer culture inquiry recommended a Code of Conduct for IM,<sup>192</sup> a proposition backed by the industry and regulatory bodies.<sup>193</sup> However, progress in this direction has been fragmented, lacking coherence.

For instance, the Incorporated Society of British Advertisers (ISBA) and the Influencer Marketing Trade Body (IMTB), the UK's professional body for IM agencies, have developed separate codes,<sup>194</sup> but the synergy between them is unclear. They mainly outline commitments between influencers, brands and talent agencies,<sup>195</sup> with minimal focus on SMIs' responsibilities towards followers. The IMTB code encourages exchange of 'good practice'<sup>196</sup> without defining it and expects members to show 'a duty of care' to society without detailing how it envisages fulfilling this undertaking. Moreover, while the ISBA code recognises SMIs' transparency responsibilities and cautions against 'misleading impressions of product effects'<sup>197</sup> (e.g. created by editing), the IMTB code does not directly address image manipulation.<sup>198</sup> Both codes race through key areas of content standards

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<sup>190</sup>EASA, BPR IM May 2023, section 2.3 <[https://www.easa-alliance.org/publications/best-practice-recommendation-on-influencer-marketing-guidance\\_v2023/](https://www.easa-alliance.org/publications/best-practice-recommendation-on-influencer-marketing-guidance_v2023/)> accessed 6 March 2024.

<sup>191</sup>ICAS, Guidelines for Social Media Influencers <<https://icas.global/advertising-self-regulation/influencer-guidelines/>> accessed 3 February 2024.

<sup>192</sup>House of Commons DCMS Committee, *Influencer culture* (n 3) para 44.

<sup>193</sup>*ibid* para 43. See also the evidence given by the CEO of Influencer.com (a global IM tech company), Ben Jeffries, who stated that an industry code would be a 'really interesting idea'; DCMS Oral evidence: Influencer culture, HC 258 (14 September 2021) Q184 <<https://committees.parliament.uk/oralevidence/2712/pdf/>> accessed 25 February 2024.

<sup>194</sup>ISBA, *Influencer Marketing Code of Conduct* (May 2022) <<https://www.isba.org.uk/system/files/media/documents/2022-04/17295%20ISBA%20Influencer%20Code%20of%20Conduct%20Ver2.pdf>> accessed 26 February 2024; IMTB Code of Conduct <<https://imtb.org.uk/code/>> accessed 26 February 2024.

<sup>195</sup>For instance, ISBA and IMTB advocate for clarity around contractual terms and a commitment to diversity in the pool of influencer talent with which brands work.

<sup>196</sup>IMTB Code of Conduct, clause 5.3.

<sup>197</sup>ISBA IM Code of Conduct (May 2022) 10.

<sup>198</sup>There is a general rule that members should 'never mislead customers, whether through omission, exaggeration, or other means'; IMTB Code, clause 1.3 <<https://imtb.org.uk/code/>> accessed 4 February 2024.

rather too hastily, overlooking various concerns around SMIs' promotional content, including the types of malpractice highlighted earlier.

It seems well-arguable that tighter SMI measures should not be introduced without commensurate action against other market players (e.g. brands, platforms) who fail to uphold good practice when dealing with influencers. However, just as ongoing conversations about enhancing accountability in advertising recognise collective responsibility across the supply chain,<sup>199</sup> SMIs themselves cannot benefit from a blanket free pass merely on account of not being responsible for plugging gaps in the system of corporate oversight. It would be unreasonable if those pursuing fundamentally the same activity as advertisers were not expected to abide by the same substantive standards. The Code of Conduct endorsed by the House of Commons inquiry presents a commendable proposition, aligning with established content standards models, such as the one implemented by the Leveson-compliant press regulator IMPRESS. Its newly introduced Standards Code is designed to empower anybody acting under a publisher's authority or in a journalistic capacity, including independent publishers and non-institutional citizen journalists, to produce high-quality work serving the public interest.<sup>200</sup> Extending a similar approach to SMIs, given their ongoing professionalisation and increasing convergence of their activities with traditional advertising practices,<sup>201</sup> would significantly boost integrity and accountability in the IM industry.

A dedicated SMI Code would benefit from a participatory and dialogical process between self-regulatory entities (e.g. IMTB, ISBA) and the principal advertising regulator to avoid the perception of a top-down governance tool. Its contents also need to be rooted in principle-based standards that establish the legal floor but also extend beyond by exemplifying what good or best practice looks like. Provisions addressing promo-masquerade, risk-fluence, mone-trapment and stereo-scripting would fortify the Code's resilience, while sharply-focused guidelines would make it less susceptible to easy dismissal. Moreover, given the low barrier to entry in the influencer ecosystem and the absence of traditional barriers (e.g. mandatory qualifications, extensive resources), some level of gatekeeping is essential to manage the continuous influx of new creators more effectively. To this end, certification mechanisms can be established to promote responsible engagement within the influencer ecosystem.

Certification schemes offer a promising avenue to ensure SMIs grasp the Code's fundamentals (e.g. through periodic e-learning and testing) and equip them with a trusted asset that amplifies their appeal for brand

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<sup>199</sup>DCMS, *OAP Consultation* (n 57).

<sup>200</sup>The Independent Monitor for the Press (IMPRESS) Standards Code <<https://www.impressorg.com/standards/impress-standards-code/our-standards-code/>> accessed 2 May 2024.

<sup>201</sup>House of Commons DCMS Committee, *Influencer culture* (n 3) para 4; Antoniou, 'Navigating Freezones in the Influencerdom' (n 17).



partnerships. Analogous initiatives in digital advertising address transparency and accountability concerns in the online advertising supply chain.<sup>202</sup> To streamline this process, industry bodies and talent agencies could administer these schemes, subject to the ASA's accreditation and continuous quality auditing. This approach minimises strain on regulatory resources and ensures that certification providers receive suitable guidance where implementation weaknesses are observed. Certified SMIs could be listed in a public register maintained by the regulator. Advertisers should mandate certification and compliance with the Code of Conduct in brand-SMI agreements they conclude to proactively mitigate common content dissemination challenges. Establishing certification as an industry-wide standard, accompanied by certification tags displayed on SMI profiles, can promote standardisation and awareness at the grassroots level. This proposition also aligns with the ASA's 'education-first'<sup>203</sup> approach to compliance and offers the influencer sector a transformative opportunity to evolve into a mature industry.

Aside from maintaining standards in follower interactions, a comprehensive baseline of accepted practices is also crucial for ensuring that SMIs remain cognisant of their responsibility to cultivate a culture of integrity within their *own* influencer community. Just as society expects individuals holding a 'role model' status to be conscious of their influence,<sup>204</sup> SMIs bear a comparable responsibility in their digital spheres. English courts have echoed this sentiment, emphasising the public's reasonable expectation of 'a higher standard of conduct'<sup>205</sup> from public figures recognised as role models, whose conduct 'could well be emulated by others'.<sup>206</sup> This responsibility transcends individual influence. SMIs shoulder the burden of setting an example for their peers too. Emerging SMIs tend to glean knowledge of the advertising rules by observing their counterparts in their genre, rather than official sources.<sup>207</sup> Remodelling behaviour by imitating rule-breakers can mis-inform other SMIs and encourage a culture of non-conformity within the wider influencer community.

## Conclusion

SMIs can serve as powerful marketing assets yet they also harbour the potential to channel irresponsible, illegal and potentially harmful commercial messages. The article emphasised that the online collectives SMIs form and maintain are

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<sup>202</sup>See e.g., the independently audited Gold Standard Certification Programme of the UK's Internet Advertising Bureau (IAB). The IAB urges marketers to collaborate solely with digital advertising suppliers holding Gold Standard certification to enhance the digital advertising ecosystem: IAB UK, The Gold Standard <<https://www.iabuk.com/goldstandard>> accessed 7 March 2024.

<sup>203</sup>House of Commons DCMS Committee, *Influencer culture* (n 3) para 77.

<sup>204</sup>Lee Barron, 'Celebrity Influence' in *Celebrity Cultures: An Introduction* (Sage 2015); Heather Mendick et al, *Celebrity, Aspiration and Contemporary Youth* (Bloomsbury Academic 2018).

<sup>205</sup>*McLaren v NGN Ltd* [2012] EWHC 2466, [34] (Lindblom J).

<sup>206</sup>*A v B & C* [2002] EWCA Civ 337, [11] (Lord Woolf CJ).

<sup>207</sup>Ofcom, *Content Creators and Community Standards* (n 7).

marked by a distinct duty to support members' meaningful consumption experience.<sup>208</sup> This responsibility is a critical communal mission that falls within the contours of SMIs' professional evolution as a new breed of professional advertisers<sup>209</sup> and is reinforced by their status as micro-public figures who elicit more favourable ad responses compared to traditional celebrities. A fresh thematic analysis of the ASA's adjudications on SMI marketing activities reveals, however, a troubling and sustained disconnect between established advertising rules and SMIs' practices on the ground.

Building on previously identified influencer 'transgressions' (i.e. misrepresentations and lies; hate speech and 'bad language'; copyright violations and 'sharenting'), the article contributes to the growing, interdisciplinary literature on influencer-driven ads and expands the framework of SMI misconduct by systematically examining for the first time the regulatory approach. A total of 141 SMI-related rulings issued by the ASA between October 2017 and April 2024 were scrutinised. Four new core themes are introduced: (a) *promo-masquerade* that goes beyond transparency of marketing intent and 'lie-based transgressions' to encompass exaggerated product efficacy through visual enhancements, mishandled 'give-away' campaigns and prize mismanagement that leaves deserving participants empty-handed or perplexed about terms of engagement; (b) shifting gears to public welfare and safety, there are serious concerns around impermissible health and nutrition claims, prohibited products, and the irresponsible promotion of age-restricted goods in SMI posts, all bundled neatly under the theme of *risk-fluence*; (c) *mone-trapment*, which involves promoting questionable 'get rich quick' schemes and high-risk investments; and (d) stereotypical narratives perpetuated through SMI content, coined as *stereo-scripting*. Although the CAP Code addresses offensive content, influencer violations concerning bad language were not observed in the sample reviewed. Copyright and 'sharenting' violations did not emerge either, presumably because they fall outside the ASA's remit and are typically handled by other frameworks (notably, copyright and privacy/data protection law).

The types of malpractice identified among SMIs do not cohere with their role as custodians of trust within online brand communities, indicating that followers' welfare does not always factor highly in some SMIs' consciousness. The analysis highlighted severe lapses in SMIs' responsibilities that remain comparatively marginalised in policy debates and have minimal integration in the UK's proposed regulatory reforms (OAP). While plans to tighten oversight across the advertising supply chain are a welcome development, gaps persist, particularly concerning SMI malpractice. Notwithstanding the warning shots fired by the ASA against ongoing rule-breaking, instances of SMI-related misconduct persist at a concerning rate (Table 1). In recent

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<sup>208</sup>Muniz and O'Guinn (n 20).

<sup>209</sup>House of Commons DCMS Committee, *Influencer culture* (n 3) para 11.

years, the regulator has prioritised scrutiny of ad disclosures, even though followers have become more discerning in their online content consumption.<sup>210</sup> The article argues that the overemphasis on transparency in the current regulatory steer creates a sense of false hierarchy and risks sidelining other critical aspects, notably promo-masquerade, risk-fluence, mone-trapment and stereo-scripting. This is unhelpful to the development of influencer regulation. The analysis highlights the need for a holistic strategy that is grounded in a more comprehensive understanding of non-compliant SMI endorsements and re-adjustment of regulatory priorities.

There is currently no evidence that SMIs' malpractice stems from wilful disregard as opposed to mere ignorance,<sup>211</sup> and it is the lack of specific guidance that impedes SMIs' ability to 'learn from mistakes'.<sup>212</sup> Implementing a tailored code of practice, bolstered by the recommended certification scheme (possibly accredited by the ASA) would establish integrity benchmarks conducive to sustainable growth in the IM industry.

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No potential conflict of interest was reported by the author(s).

## Notes on contributor

*Dr. Alexandros Antoniou* has a robust research portfolio in communications law and intellectual property asset management. His work has been featured in prominent academic journals, including *The Journal of Media Law*, *Communications Law*, *Entertainment Law Review*, and the *Journal of Intellectual Property Law & Practice*. In addition to his academic contributions, Dr. Antoniou serves as a legal correspondent for the European Audiovisual Observatory, where he provides expert analysis on legal developments in the media industry.

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<sup>210</sup>Cocker et al (n 47) 1863.

<sup>211</sup>See e.g., Ruling on *Litty Liquor* (31 May 2023), where the advertiser, also responding on behalf of the influencer, stated that the featuring SMI ArrDee had been 'unaware of the requirements of the CAP Code'.

<sup>212</sup>Ofcom, *Content Creators and Community Standards* (n 7).

## Appendix

**Table A1.** ASA Rulings concerning recognition of marketing communications.

Date issued	ASA Ruling	SMI(s) involved	Ruling URL (last accessed 8 March 2024)
25 Oct. 2017	Ruling on Unleashed PR Ltd t/a I Spy Eyes IAW Marnie Simpson t/a I Spy Eyes	Marnie Simpson	<a href="https://www.asa.org.uk/rulings/unleashed-pr-ltd-a17-395923.html">https://www.asa.org.uk/rulings/unleashed-pr-ltd-a17-395923.html</a>
25 Oct. 2017	Ruling on Diamond Whites IAW Marnie Simpson	Marnie Simpson	<a href="https://www.asa.org.uk/rulings/diamond-whites-a17-394908.html">https://www.asa.org.uk/rulings/diamond-whites-a17-394908.html</a>
4 Oct. 2017	Ruling on Gala Interactive (Gibraltar) Ltd	Unnamed affiliate	<a href="https://www.asa.org.uk/rulings/gala-interactive-gibraltar-ltd-a17-389604.html">https://www.asa.org.uk/rulings/gala-interactive-gibraltar-ltd-a17-389604.html</a>
3 Jan. 2018	Ruling on Convits Ltd IAW Stephanie Davis	Stephanie Davis	<a href="https://www.asa.org.uk/rulings/convits-ltd-a17-396044.html">https://www.asa.org.uk/rulings/convits-ltd-a17-396044.html</a>
7 Mar. 2018	Ruling on Wahoo Fitness Ltd	Simon Richardson and Matt Stephens	<a href="https://www.asa.org.uk/rulings/wahoo-fitness-uk-ltd-a17-1.html">https://www.asa.org.uk/rulings/wahoo-fitness-uk-ltd-a17-1.html</a>
3 Oct. 2018	Ruling on Warpaint Cosmetics (2014) Ltd t/a W7 IAW Olivia Buckland t/a W7	Olivia Buckland	<a href="https://www.asa.org.uk/rulings/warpaint-cosmetics-2014-ltd-a18-451516.html">https://www.asa.org.uk/rulings/warpaint-cosmetics-2014-ltd-a18-451516.html</a>
27 Jun. 2018	Ruling on Coco Shine IAW Aliyah Maria Bee	Aliyah Maria Bee	<a href="https://www.asa.org.uk/rulings/coco-shine-a18-444165.html">https://www.asa.org.uk/rulings/coco-shine-a18-444165.html</a>
25 Jul. 2018	Ruling on Daniel Wellington AB IAW Louise Thompson	Louise Thompson	<a href="https://www.asa.org.uk/rulings/daniel-wellington-ab-a18-449659.html">https://www.asa.org.uk/rulings/daniel-wellington-ab-a18-449659.html</a>
7 Nov. 2018	Ruling on Platinum Gaming Ltd t/a Unibet IAW Nicky Henderson t/a Unibet	Nicky Henderson	<a href="https://www.asa.org.uk/rulings/platinum-gaming-ltd-a17-406450.html">https://www.asa.org.uk/rulings/platinum-gaming-ltd-a17-406450.html</a>
12 Sep. 2018	Ruling on Vanity Planet IAW Louise Thompson	Louise Thompson	<a href="https://www.asa.org.uk/rulings/vanity-planet-a18-450748.html">https://www.asa.org.uk/rulings/vanity-planet-a18-450748.html</a>
31 Jul. 2019	Ruling on The White Star Key Group t/a Skinny Caffe IAW Jemma Lucy	Jemma Lucy	<a href="https://www.asa.org.uk/rulings/the-white-star-key-group-ltd-G19-1019812.html">https://www.asa.org.uk/rulings/the-white-star-key-group-ltd-G19-1019812.html</a>
7 Aug. 2019	Ruling on Cocoa Brown IAW Olivia Buckland	Olivia Buckland	<a href="https://www.asa.org.uk/rulings/cocoa-brown-A19-561238.html">https://www.asa.org.uk/rulings/cocoa-brown-A19-561238.html</a>
18 Sep. 2019	Ruling on Brooks Brothers Ltd	Matthew Zorpas	<a href="https://www.asa.org.uk/rulings/brooks-brothers-uk-ltd-A19-565992.html">https://www.asa.org.uk/rulings/brooks-brothers-uk-ltd-A19-565992.html</a>
30 Oct. 2019	Ruling on Matalan Retail Ltd IAW TL Blog Ltd	The TL Blog	<a href="https://www.asa.org.uk/rulings/matalan-retail-ltd-A19-1020138.html">https://www.asa.org.uk/rulings/matalan-retail-ltd-A19-1020138.html</a>
20 Nov. 2019	Ruling on Zoe de Pass t/a Dress Like A Mum (DLAM)	Zoe De Pass	<a href="https://www.asa.org.uk/rulings/zoe-de-pass.html">https://www.asa.org.uk/rulings/zoe-de-pass.html</a>
4 Dec. 2019	Ruling on idesigngold.com	Katie Price	<a href="https://www.asa.org.uk/rulings/idesigngold-com-A19-1025076.html">https://www.asa.org.uk/rulings/idesigngold-com-A19-1025076.html</a>
8 Jan. 2020	Ruling on Prettylittlething.com Ltd	Molly Mae Hague	<a href="https://www.asa.org.uk/rulings/prettylittlething-dot-com-ltd-A19-1035979.html">https://www.asa.org.uk/rulings/prettylittlething-dot-com-ltd-A19-1035979.html</a>

(Continued)

**Table A1.** Continued.

Date issued	ASA Ruling	SML(s) involved	Ruling URL (last accessed 8 March 2024)
22 Apr. 2020	Ruling on Asos.com Ltd	Zoe Sugg	<a href="https://www.asa.org.uk/rulings/asos-com-ltd-a19-1025856-asos-com-ltd.html">https://www.asa.org.uk/rulings/asos-com-ltd-a19-1025856-asos-com-ltd.html</a>
06 May 2020	Ruling on Sportswift Ltd t/a Card Factory	Stacey Solomon	<a href="https://www.asa.org.uk/rulings/sportswift-ltd-g20-1058968-sportswift-ltd.html">https://www.asa.org.uk/rulings/sportswift-ltd-g20-1058968-sportswift-ltd.html</a>
06 May 2020	Ruling on STYLIDEAS Ltd	Lord Sugar	<a href="https://www.asa.org.uk/rulings/stylideas-ltd-a19-1046547-stylideas-ltd.html">https://www.asa.org.uk/rulings/stylideas-ltd-a19-1046547-stylideas-ltd.html</a>
7 Oct. 2020	Ruling on SkinnyJab Ltd t/a Skinny Jab	Gemma Collins	<a href="https://www.asa.org.uk/rulings/skinnyjab-ltd-a20-1064725-skinnyjab-ltd.html">https://www.asa.org.uk/rulings/skinnyjab-ltd-a20-1064725-skinnyjab-ltd.html</a>
4 Nov. 2020	Ruling on Jamella IAW Emily Canham t/a GHD	Emily Canham	<a href="https://www.asa.org.uk/rulings/jemella-ltd-a20-1068055-jemella-ltd.html">https://www.asa.org.uk/rulings/jemella-ltd-a20-1068055-jemella-ltd.html</a>
18 Nov. 2020	Ruling on Person(s) unknown t/a TBM Enterprises and Thebettingman	Sam Gowland	<a href="https://www.asa.org.uk/rulings/person-s-unknown-a20-1066758-thebettingman.html">https://www.asa.org.uk/rulings/person-s-unknown-a20-1066758-thebettingman.html</a>
10 Feb. 2021	Ruling on Boohoo.com UK Ltd IAW Luke Mabbott	Luke Mabbott	<a href="https://www.asa.org.uk/rulings/boohoo-com-uk-ltd-in-association-with-luke-mabbott.html">https://www.asa.org.uk/rulings/boohoo-com-uk-ltd-in-association-with-luke-mabbott.html</a>
31 Mar. 2021	Ruling on Genus UK Ltd t/a Select Fashion	Mandi and Anna Vakili	<a href="https://www.asa.org.uk/rulings/genus-uk-ltd-g21-1092765-genus-uk-ltd.html">https://www.asa.org.uk/rulings/genus-uk-ltd-g21-1092765-genus-uk-ltd.html</a>
7 Apr. 2021	Ruling on Prettylittlething.com Ltd	Eloise Fouladgar, Jimbo H, Kate Elisabeth, Millie T, Carmie Sellitto and Spencer Elmer	<a href="https://www.asa.org.uk/rulings/prettylittlething-com-ltd-a20-1082593-prettylittlething-com-ltd.html">https://www.asa.org.uk/rulings/prettylittlething-com-ltd-a20-1082593-prettylittlething-com-ltd.html</a>
14 Apr. 2021	Ruling on North Wests Competitions Ltd	Chet Johnson	<a href="https://www.asa.org.uk/rulings/north-wests-competitions-ltd-a21-1092370-north-wests-competitions-ltd.html">https://www.asa.org.uk/rulings/north-wests-competitions-ltd-a21-1092370-north-wests-competitions-ltd.html</a>
14 Apr. 2021	Ruling on Missguided Ltd	Zara McDermott	<a href="https://www.asa.org.uk/rulings/missguided-ltd-g21-1099580-missguided-ltd.html">https://www.asa.org.uk/rulings/missguided-ltd-g21-1099580-missguided-ltd.html</a>
19 May 2021	Ruling on JST Nutrition Ltd	Jodie Marsh	<a href="https://www.asa.org.uk/rulings/jst-nutrition-ltd-a21-1092793-jst-nutrition-ltd.html">https://www.asa.org.uk/rulings/jst-nutrition-ltd-a21-1092793-jst-nutrition-ltd.html</a>
21 Jul. 2021	Ruling on Engage Clothing	Carl J Woods	<a href="https://www.asa.org.uk/rulings/engage-clothing-ltd-a21-1101925-engage-clothing-ltd.html">https://www.asa.org.uk/rulings/engage-clothing-ltd-a21-1101925-engage-clothing-ltd.html</a>
2 Jun. 2021	Ruling on Ashteck Media Ltd t/a Ashteck Media	Helen Briggs, Myles Barnett and Chloe Ferry	<a href="https://www.asa.org.uk/rulings/ashteck-media-ltd-g21-1099879-ashteck-media-ltd.html">https://www.asa.org.uk/rulings/ashteck-media-ltd-g21-1099879-ashteck-media-ltd.html</a>
21 Jul. 2021	Ruling on BPerfect Ltd	Charlotte Dawson	<a href="https://www.asa.org.uk/rulings/bperfect-ltd-g21-1110608-bperfect-ltd.html">https://www.asa.org.uk/rulings/bperfect-ltd-g21-1110608-bperfect-ltd.html</a>

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**Table A1.** Continued.

Date issued	ASA Ruling	SML(s) involved	Ruling URL (last accessed 8 March 2024)
18 Aug. 2021	Ruling on Emma Louise Connolly	Emma Louise Connolly	<a href="https://www.asa.org.uk/rulings/emma-louise-connolly-g21-1114838-emma-louise-connolly.html">https://www.asa.org.uk/rulings/emma-louise-connolly-g21-1114838-emma-louise-connolly.html</a>
4 Aug. 2021	Ruling on Person(s) Unknown	Lauren Goodger	<a href="https://www.asa.org.uk/rulings/person-s-unknown-a21-1101809-person-s-unknown.html">https://www.asa.org.uk/rulings/person-s-unknown-a21-1101809-person-s-unknown.html</a>
29 Sep. 2021	Ruling on HairCybele	Jennifer Metcalfe	<a href="https://www.asa.org.uk/rulings/haircybele-a21-1109002-haircybele.html">https://www.asa.org.uk/rulings/haircybele-a21-1109002-haircybele.html</a>
13 Oct. 2021	Ruling on Charlotte Tilbury Beauty Ltd	Eliza Batten	<a href="https://www.asa.org.uk/rulings/charlotte-tilbury-beauty-ltd-a21-1094783-charlotte-tilbury-beauty-ltd.html">https://www.asa.org.uk/rulings/charlotte-tilbury-beauty-ltd-a21-1094783-charlotte-tilbury-beauty-ltd.html</a>
27 Oct. 2021	Ruling on Primark Stores Ltd	Gabby Allen	<a href="https://www.asa.org.uk/rulings/primark-stores-ltd-a21-1118770-primark-stores-ltd.html">https://www.asa.org.uk/rulings/primark-stores-ltd-a21-1118770-primark-stores-ltd.html</a>
22 Dec. 2021	Ruling on Charlotte Dawson t/a charlottedawsony	Charlotte Dawson	<a href="https://www.asa.org.uk/rulings/charlotte-dawson-a21-1122943-charlotte-dawson.html">https://www.asa.org.uk/rulings/charlotte-dawson-a21-1122943-charlotte-dawson.html</a>
22 Dec. 2021	Ruling on Chloe Ferry t/a chloegshore1, Chloe1ferry	Chloe Ferry	<a href="https://www.asa.org.uk/rulings/chloe-ferry-a21-1117945-chloe-ferry.html">https://www.asa.org.uk/rulings/chloe-ferry-a21-1117945-chloe-ferry.html</a>
22 Dec. 2021	Ruling on Jamie Genevieve	Jamie Genevieve	<a href="https://www.asa.org.uk/rulings/jamie-genevieve-g21-1110732-jamie-genevieve.html">https://www.asa.org.uk/rulings/jamie-genevieve-g21-1110732-jamie-genevieve.html</a>
22 Dec. 2021	Ruling on The Lowcal Ltd	Adam Cuthbertson	<a href="https://www.asa.org.uk/rulings/the-lowcal-ltd-g21-1121210-the-lowcal-ltd.html">https://www.asa.org.uk/rulings/the-lowcal-ltd-g21-1121210-the-lowcal-ltd.html</a>
30 Mar. 2022	Ruling on In The Style Fashion Ltd t/a In the Style	Lorna Luxe	<a href="https://www.asa.org.uk/rulings/in-the-style-fashion-ltd-g21-1134940-in-the-style-fashion-ltd.html">https://www.asa.org.uk/rulings/in-the-style-fashion-ltd-g21-1134940-in-the-style-fashion-ltd.html</a>
04 May 2022	Ruling on Leisure Wear Ltd t/a SnugglyUK	Jake Quickenden	<a href="https://www.asa.org.uk/rulings/leisure-wear-ltd-a21-1138096-leisure-wear-ltd.html">https://www.asa.org.uk/rulings/leisure-wear-ltd-a21-1138096-leisure-wear-ltd.html</a>
29 Jun. 2022	Ruling on Relx (UK) Ltd	Louis Shaw	<a href="https://www.asa.org.uk/rulings/relx-uk-ltd-a21-1138382-relx-uk-ltd.html">https://www.asa.org.uk/rulings/relx-uk-ltd-a21-1138382-relx-uk-ltd.html</a>
13 Jul. 2022	Ruling on Prettylittlething.com Ltd t/a Prettylittlething.com	Molly Mae Hague	<a href="https://www.asa.org.uk/rulings/prettylittlething-com-ltd-a21-1128069-prettylittlething-com-ltd.html">https://www.asa.org.uk/rulings/prettylittlething-com-ltd-a21-1128069-prettylittlething-com-ltd.html</a>
21 Sep. 2022	Ruling on Ferry Homely Ltd	Chloe Ferry	<a href="https://www.asa.org.uk/rulings/ferry-homely-ltd-g22-1157317-ferry-homely-ltd.html">https://www.asa.org.uk/rulings/ferry-homely-ltd-g22-1157317-ferry-homely-ltd.html</a>
21 Sep. 2022	Ruling on Next Wave Ventures Ltd t/a Kyszer	Chloe Ferry	<a href="https://www.asa.org.uk/rulings/next-wave-ventures-ltd-a22-1166311-next-wave-ventures-ltd.html">https://www.asa.org.uk/rulings/next-wave-ventures-ltd-a22-1166311-next-wave-ventures-ltd.html</a>
21 Sep. 2022	Ruling on Ugg Bugg Fashion Ltd t/a Missy Empire	Chloe Ferry	<a href="https://www.asa.org.uk/rulings/ugg-bugg-fashion-ltd-a22-1166309-ugg-bugg-fashion-ltd.html">https://www.asa.org.uk/rulings/ugg-bugg-fashion-ltd-a22-1166309-ugg-bugg-fashion-ltd.html</a>
2 Nov. 2022	Ruling on Myleene Klass	Myleene Klass	<a href="https://www.asa.org.uk/rulings/myleene-klass-a22-1160222-myleene-klass.html">https://www.asa.org.uk/rulings/myleene-klass-a22-1160222-myleene-klass.html</a>

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**Table A1.** Continued.

Date issued	ASA Ruling	SMI(s) involved	Ruling URL (last accessed 8 March 2024)
2 Nov. 2022	Ruling on Next Retail Ltd	Myleene Klass	<a href="https://www.asa.org.uk/rulings/next-retail-ltd-a22-1155318-next-retail-ltd.html">https://www.asa.org.uk/rulings/next-retail-ltd-a22-1155318-next-retail-ltd.html</a>
2 Nov. 2022	Ruling on Sketchers UK	Myleene Klass	<a href="https://www.asa.org.uk/rulings/skechers-uk-a22-1160217-skechers-uk.html">https://www.asa.org.uk/rulings/skechers-uk-a22-1160217-skechers-uk.html</a>
30 Nov. 2022	Ruling on J Choo Ltd	Victoria Magrath	<a href="https://www.asa.org.uk/rulings/j-choo-ltd-g22-1157232-j-choo-ltd.html">https://www.asa.org.uk/rulings/j-choo-ltd-g22-1157232-j-choo-ltd.html</a>
30 Nov. 2022	Ruling on Never Fully Dressed Ltd t/a Never Fully Dressed	Chessie King	<a href="https://www.asa.org.uk/rulings/never-fully-dressed-ltd-g22-1159854-never-fully-dressed-ltd.html">https://www.asa.org.uk/rulings/never-fully-dressed-ltd-g22-1159854-never-fully-dressed-ltd.html</a>
21 Dec. 2022	Ruling on Sony Interactive Entertainment Europe Ltd	Rio Ferdinand	<a href="https://www.asa.org.uk/rulings/sony-interactive-entertainment-europe-ltd-a22-1158560-sony-interactive-entertainment-europe-ltd.html">https://www.asa.org.uk/rulings/sony-interactive-entertainment-europe-ltd-a22-1158560-sony-interactive-entertainment-europe-ltd.html</a>
25 Jan. 2023	Ruling on Tara Maynard t/a Taramays25	Tara Maynard	<a href="https://www.asa.org.uk/rulings/tara-maynard-a22-1160073-tara-maynard.html">https://www.asa.org.uk/rulings/tara-maynard-a22-1160073-tara-maynard.html</a>
8 Feb. 2023	Ruling on Vodafone Ltd	Alexandra Felstead	<a href="https://www.asa.org.uk/rulings/vodafone-ltd-a22-1160072-vodafone-ltd.html">https://www.asa.org.uk/rulings/vodafone-ltd-a22-1160072-vodafone-ltd.html</a>
8 Feb. 2023	Ruling on The Muff Liquor Company	Laura Whitmore	<a href="https://www.asa.org.uk/rulings/the-muff-liquor-company-a22-1159956-the-muff-liquor-company.html">https://www.asa.org.uk/rulings/the-muff-liquor-company-a22-1159956-the-muff-liquor-company.html</a>
15 Feb. 2023	Ruling on Charlotte Dawson	Charlotte Dawson	<a href="https://www.asa.org.uk/rulings/charlotte-dawson-g22-1160111-charlotte-dawson.html">https://www.asa.org.uk/rulings/charlotte-dawson-g22-1160111-charlotte-dawson.html</a>
8 Mar. 2023	Ruling on Erim Kaur t/a Erim Kaur (erimstagram)	Erim Kaur	<a href="https://www.asa.org.uk/rulings/erim-kaur-a22-1169885-erim-kaur.html">https://www.asa.org.uk/rulings/erim-kaur-a22-1169885-erim-kaur.html</a>
15 Mar. 2023	Ruling on Sophie Hinchliffe t/a Mrs Hinch (in re: own notebooks)	Sophie Hinchliffe	<a href="https://www.asa.org.uk/rulings/sophie-hinchliffe-g22-1140953-sophie-hinchliffe.html">https://www.asa.org.uk/rulings/sophie-hinchliffe-g22-1140953-sophie-hinchliffe.html</a>
15 Mar. 2023	Ruling on Sophie Hinchliffe t/a Mrs Hinch (in re: Tesco collab)	Sophie Hinchliffe	<a href="https://www.asa.org.uk/rulings/sophie-hinchliffe-g22-1155720-sophie-hinchliffe.html">https://www.asa.org.uk/rulings/sophie-hinchliffe-g22-1155720-sophie-hinchliffe.html</a>
19 Apr. 2023	Ruling on Universal Music Operations Ltd	Tasha Ghouri	<a href="https://www.asa.org.uk/rulings/universal-music-operations-ltd-a22-1174332-universal-music-operations-ltd.html">https://www.asa.org.uk/rulings/universal-music-operations-ltd-a22-1174332-universal-music-operations-ltd.html</a>
17 May 2023	Ruling on JD Sports Fashion plc	Mr Olatunji t/a KSI	<a href="https://www.asa.org.uk/rulings/jd-sports-fashion-plc-a22-1177349-jd-sports-fashion-plc.html">https://www.asa.org.uk/rulings/jd-sports-fashion-plc-a22-1177349-jd-sports-fashion-plc.html</a>
17 May 2023	Ruling on LIFT Aesthetics t/a lift.aesthetics	Carl J Woods	<a href="https://www.asa.org.uk/rulings/lift-aesthetics-a22-1158433-lift-aesthetics.html">https://www.asa.org.uk/rulings/lift-aesthetics-a22-1158433-lift-aesthetics.html</a>
14 Jun. 2023	Ruling on Qatar Tourism	Rio Ferdinand	<a href="https://www.asa.org.uk/rulings/qatar-tourism-a22-1180228-qatar-tourism.html">https://www.asa.org.uk/rulings/qatar-tourism-a22-1180228-qatar-tourism.html</a>
19 Jul. 2023	Ruling on WeShop Holdings Ltd t/a WeShop	Ariana Ajtar, Mary Bedford and Rebecca Lamb	<a href="https://www.asa.org.uk/rulings/weshop-holdings-ltd-17-07-2023-G23-1182467.html">https://www.asa.org.uk/rulings/weshop-holdings-ltd-17-07-2023-G23-1182467.html</a>

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**Table A1.** Continued.

Date issued	ASA Ruling	SMI(s) involved	Ruling URL (last accessed 8 March 2024)
9 Aug. 2023	Ruling on Sony Interactive Entertainment Europe Ltd t/a Playstation	Ozzy Osbourne	<a href="https://www.asa.org.uk/rulings/sony-interactive-entertainment-europe-ltd-a23-1188413-sony-interactive-entertainment-europe-ltd.html">https://www.asa.org.uk/rulings/sony-interactive-entertainment-europe-ltd-a23-1188413-sony-interactive-entertainment-europe-ltd.html</a>
13 Sep. 2023	Ruling on Just Spices GmbH	Sevda Ela	<a href="https://www.asa.org.uk/rulings/just-spices-gmbh-a23-1195235-just-spices-gmbh.html">https://www.asa.org.uk/rulings/just-spices-gmbh-a23-1195235-just-spices-gmbh.html</a>
20 Sep. 2023	Ruling on Global Brands Ltd	Charly Anne Collard	<a href="https://www.asa.org.uk/rulings/global-brands-ltd-g23-1199017-global-brands-ltd.html">https://www.asa.org.uk/rulings/global-brands-ltd-g23-1199017-global-brands-ltd.html</a>
11 Oct. 2023	Ruling on ASA Ruling on Accor UK Ltd	Lydia Elise Millen	<a href="https://www.asa.org.uk/rulings/accor-uk-ltd-a23-1195854-accor-uk-ltd.html">https://www.asa.org.uk/rulings/accor-uk-ltd-a23-1195854-accor-uk-ltd.html</a>
18 Oct. 2023	Ruling on Doctor Burgos de la Obra SLP t/a drburgosdelaobra_lipedema	Gabriella Lindley	<a href="https://www.asa.org.uk/rulings/doctor-burgos-de-la-obra-slp-g23-1186054-doctor-burgos-de-la-obra-slp.html">https://www.asa.org.uk/rulings/doctor-burgos-de-la-obra-slp-g23-1186054-doctor-burgos-de-la-obra-slp.html</a>
3 Jan. 2024	Ruling on Erdem Clinic	Millie Bracewell	<a href="https://www.asa.org.uk/rulings/erdem-clinic-a23-1209226-erdem-clinic.html">https://www.asa.org.uk/rulings/erdem-clinic-a23-1209226-erdem-clinic.html</a>
14 Feb. 2024	Ruling on Supreme CBD Ltd t/a Supreme CBD	John Hartson @JohnHartson10, Anthony Fowler @afowler06 and Matt Le Tissier	<a href="https://www.asa.org.uk/rulings/supreme-cbd-ltd-g23-1198642-supreme-cbd-ltd.html">https://www.asa.org.uk/rulings/supreme-cbd-ltd-g23-1198642-supreme-cbd-ltd.html</a>
6 Mar. 2024	Ruling on BPerfect Ltd	Stephanie Vavron	<a href="https://www.asa.org.uk/rulings/bperfect-ltd-a23-1218364-bperfect-ltd.html">https://www.asa.org.uk/rulings/bperfect-ltd-a23-1218364-bperfect-ltd.html</a>
13 Mar. 2024	Ruling on Global Brands Ltd	Danielle Walsh	<a href="https://www.asa.org.uk/rulings/global-brands-ltd-a23-1215641-global-brands-ltd.html">https://www.asa.org.uk/rulings/global-brands-ltd-a23-1215641-global-brands-ltd.html</a>
3 Apr. 2024	Ruling on Not Guilty Food Co Ltd t/a The Skinny Food Co	Katie Price	<a href="https://www.asa.org.uk/rulings/not-guilty-food-co-ltd-g23-1215538-not-guilty-food-co-ltd.html">https://www.asa.org.uk/rulings/not-guilty-food-co-ltd-g23-1215538-not-guilty-food-co-ltd.html</a>



**Table A2.** ASA Rulings concerning all other themes.

Date issued	ASA Ruling	SMI(s) involved	Ruling URL (last accessed 8 March 2024)
30 May 2018	Ruling on Vivaro Ltd t/a BetBull.com (not upheld)	Spencer Owen	<a href="https://www.asa.org.uk/rulings/vivaro-ltd-a18-410014.html">https://www.asa.org.uk/rulings/vivaro-ltd-a18-410014.html</a>
4 Jul. 2018	Ruling on Ferrero UK Ltd (not upheld)	Zoella	<a href="https://www.asa.org.uk/rulings/ferrero-uk-ltd-a18-444638.html">https://www.asa.org.uk/rulings/ferrero-uk-ltd-a18-444638.html</a>
31 Jul. 2019	Ruling on The White Star Key Group t/a Skinny Caffe IAW Jemma Lucy	Jemma Lucy	<a href="https://www.asa.org.uk/rulings/the-white-star-key-group-ltd-G19-1019812.html">https://www.asa.org.uk/rulings/the-white-star-key-group-ltd-G19-1019812.html</a>
3 Jul. 2019	Ruling on Sanofi UK IAW This Mama Life	This Mama Life	<a href="https://www.asa.org.uk/rulings/sanofi-uk-A19-557609.html">https://www.asa.org.uk/rulings/sanofi-uk-A19-557609.html</a>
4 Sep. 2019	Ruling on Heineken Enterprise Ltd (not upheld)	Tanya Burr	<a href="https://www.asa.org.uk/rulings/heineken-enterprise-ltd-G19-1018369.html">https://www.asa.org.uk/rulings/heineken-enterprise-ltd-G19-1018369.html</a>
23 Oct. 2019	Ruling on Boom Bod Ltd	Lauren Goodger and Katie Price	<a href="https://www.asa.org.uk/rulings/boom-bod-ltd-G19-1018366.html">https://www.asa.org.uk/rulings/boom-bod-ltd-G19-1018366.html</a>
23 Oct. 2019	Ruling on Protein Revolution Ltd	Georgia Harrison	<a href="https://www.asa.org.uk/rulings/protein-revolution-ltd-A19-564759.html">https://www.asa.org.uk/rulings/protein-revolution-ltd-A19-564759.html</a>
20 Nov. 2019	Ruling on Halewood International Ltd t/a Tequila Rose (partly upheld)	Holly Ah-Thion	<a href="https://www.asa.org.uk/rulings/halewood-international-ltd-A19-1019153.html">https://www.asa.org.uk/rulings/halewood-international-ltd-A19-1019153.html</a>
8 Jan. 2020	Ruling on Sazerac UK Ltd	Francesca Perks and Jack Remington	<a href="https://www.asa.org.uk/rulings/sazerac-uk-ltd-G19-1041900.html">https://www.asa.org.uk/rulings/sazerac-uk-ltd-G19-1041900.html</a>
18 Mar. 2020	Ruling on Persons Unknown t/a Luxsleeps	Influencer account: @amelias.homestyle.x	<a href="https://www.asa.org.uk/rulings/persons-unknown-a19-1038328-luxsleeps.html">https://www.asa.org.uk/rulings/persons-unknown-a19-1038328-luxsleeps.html</a>
2 Sep. 2020	Ruling on Global Brands Ltd (not upheld)	Luke Mabbott	<a href="https://www.asa.org.uk/rulings/global-brands-ltd-a20-1069897-global-brands-ltd.html">https://www.asa.org.uk/rulings/global-brands-ltd-a20-1069897-global-brands-ltd.html</a>
7 Oct. 2020	Ruling on SkinnyJab Ltd t/a Skinny Jab	Gemma Collins	<a href="https://www.asa.org.uk/rulings/skinnyjab-ltd-a20-1064725-skinnyjab-ltd.html">https://www.asa.org.uk/rulings/skinnyjab-ltd-a20-1064725-skinnyjab-ltd.html</a>
18 Nov. 2020	Ruling on Person(s) unknown t/a TBM Enterprises and Thebettingman	Sam Gowland	<a href="https://www.asa.org.uk/rulings/person-s-unknown-a20-1066758-thebettingman.html">https://www.asa.org.uk/rulings/person-s-unknown-a20-1066758-thebettingman.html</a>
23 Dec. 2020	Ruling on Klarna Bank AB	Bradley Harper, Claire Menary, Aisha Master and Yasmin Fatollahy	<a href="https://www.asa.org.uk/rulings/klarna-bank-ab-a20-1081031-klarna-bank-ab.html">https://www.asa.org.uk/rulings/klarna-bank-ab-a20-1081031-klarna-bank-ab.html</a>

(Continued)

**Table A2.** Continued.

Date issued	ASA Ruling	SMI(s) involved	Ruling URL (last accessed 8 March 2024)
3 Feb. 2021	Ruling on Skinny Tan Ltd IAW Elly Norris	Elly Norris	<a href="https://www.asa.org.uk/rulings/skinny-tan-ltd-in-association-with-elly-norris.html">https://www.asa.org.uk/rulings/skinny-tan-ltd-in-association-with-elly-norris.html</a>
3 Feb. 2021	Ruling on We Are Luxe Ltd t/a TANOLOGIST TAN IAW Cinzia Baylis-Zullo	Cinzia Baylis-Zullo	<a href="https://www.asa.org.uk/rulings/we-are-luxe-ltd-t-a-tanologist-tan-in-association-with-cinzia-baylis-zullo.html">https://www.asa.org.uk/rulings/we-are-luxe-ltd-t-a-tanologist-tan-in-association-with-cinzia-baylis-zullo.html</a>
6 Mar. 2021	Ruling on Molly-Mae Hague t/a mollymaehague	Molly-Mae Hague	<a href="https://www.asa.org.uk/rulings/molly-mae-hague-g20-1078674-molly-mae-hague.html">https://www.asa.org.uk/rulings/molly-mae-hague-g20-1078674-molly-mae-hague.html</a>
19 May 2021	Ruling on JST Nutrition Ltd	Jodie Marsh	<a href="https://www.asa.org.uk/rulings/jst-nutrition-ltd-a21-1092793-jst-nutrition-ltd.html">https://www.asa.org.uk/rulings/jst-nutrition-ltd-a21-1092793-jst-nutrition-ltd.html</a>
2 Jun. 2021	Ruling on Ashteck Media Ltd t/a Ashteck Media	Helen Briggs, Myles Barnett and Chloe Ferry	<a href="https://www.asa.org.uk/rulings/ashteck-media-ltd-g21-1099879-ashteck-media-ltd.html">https://www.asa.org.uk/rulings/ashteck-media-ltd-g21-1099879-ashteck-media-ltd.html</a>
7 Jul. 2021	Ruling on Pruvit Ventures Ltd	Danielle Lloyd and Cheryl Johnston	<a href="https://www.asa.org.uk/rulings/pruvit-ventures-inc-g21-1112564-pruvit-ventures-inc.html">https://www.asa.org.uk/rulings/pruvit-ventures-inc-g21-1112564-pruvit-ventures-inc.html</a>
21 Jul. 2021	Ruling on BPerfect Ltd	Charlotte Dawson	<a href="https://www.asa.org.uk/rulings/bperfect-ltd-g21-1110608-bperfect-ltd.html">https://www.asa.org.uk/rulings/bperfect-ltd-g21-1110608-bperfect-ltd.html</a>
4 Aug. 2021	Ruling on Person(s) Unknown	Lauren Goodger	<a href="https://www.asa.org.uk/rulings/person-s-unknown-a21-1101809-person-s-unknown.html">https://www.asa.org.uk/rulings/person-s-unknown-a21-1101809-person-s-unknown.html</a>
18 Aug. 2021	Ruling on Briley Powell	Briley Powell	<a href="https://www.asa.org.uk/rulings/briley-powell-a21-1108818-briley-powell.html">https://www.asa.org.uk/rulings/briley-powell-a21-1108818-briley-powell.html</a>
1 Dec. 2021	Ruling on The Hut.com Ltd	Willow Biggs	<a href="https://www.asa.org.uk/rulings/the-hut-com-ltd-g21-1123050-the-hut-com-ltd.html">https://www.asa.org.uk/rulings/the-hut-com-ltd-g21-1123050-the-hut-com-ltd.html</a>
22 Dec. 2021	Ruling on Yolé Global Pte Ltd	N/A	<a href="https://www.asa.org.uk/rulings/yole-global-pte-ltd-a21-1120862-yole-global-pte-ltd.html">https://www.asa.org.uk/rulings/yole-global-pte-ltd-a21-1120862-yole-global-pte-ltd.html</a>
22 Dec. 2021	Ruling on The Lowcal Ltd	Adam Cuthbertson	<a href="https://www.asa.org.uk/rulings/the-lowcal-ltd-g21-1121210-the-lowcal-ltd.html">https://www.asa.org.uk/rulings/the-lowcal-ltd-g21-1121210-the-lowcal-ltd.html</a>
5 Jan. 2022	Ruling on 888 UK Ltd (not upheld)	Callum Airey	<a href="https://www.asa.org.uk/rulings/888-uk-ltd-g21-1120368-888-uk-ltd.html">https://www.asa.org.uk/rulings/888-uk-ltd-g21-1120368-888-uk-ltd.html</a>
30 Mar. 2022	Ruling on Stephen Bear t/a stevie bear	Stephen Bear	<a href="https://www.asa.org.uk/rulings/stephen-bear-g21-1121308-stephen-bear.html">https://www.asa.org.uk/rulings/stephen-bear-g21-1121308-stephen-bear.html</a>
29 Jun. 2022	Ruling on Relx (UK) Ltd	Louis Shaw	<a href="https://www.asa.org.uk/rulings/relx-uk-ltd-a21-1138382-relx-uk-ltd.html">https://www.asa.org.uk/rulings/relx-uk-ltd-a21-1138382-relx-uk-ltd.html</a>
29 Jun. 2022	Ruling on Wild Drinks Group Ltd t/a Whip Drinks	Rosie Breen	<a href="https://www.asa.org.uk/rulings/wild-drinks-group-ltd-a22-1145995-wild-drinks-group-ltd.html">https://www.asa.org.uk/rulings/wild-drinks-group-ltd-a22-1145995-wild-drinks-group-ltd.html</a>

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**Table A2.** Continued.

Date issued	ASA Ruling	SMI(s) involved	Ruling URL (last accessed 8 March 2024)
6 Jul. 2022	Ruling on Served Drinks Ltd t/a Served	Ellie Goulding	<a href="https://www.asa.org.uk/rulings/served-drinks-ltd-g22-1146766-served-drinks-ltd.html">https://www.asa.org.uk/rulings/served-drinks-ltd-g22-1146766-served-drinks-ltd.html</a>
13 Jul. 2022	Ruling on DNBA Entertainment Ltd	Account of @thearchbishopofbanterbury	<a href="https://www.asa.org.uk/rulings/dnba-entertainment-ltd-a22-1153720-dnba-entertainment-ltd.html">https://www.asa.org.uk/rulings/dnba-entertainment-ltd-a22-1153720-dnba-entertainment-ltd.html</a>
27 Jul. 2022	Ruling on JA Physique Ltd t/a jakeabbott07	Jake Abbott	<a href="https://www.asa.org.uk/rulings/ja-physique-ltd-a22-1155446-ja-physique-ltd.html">https://www.asa.org.uk/rulings/ja-physique-ltd-a22-1155446-ja-physique-ltd.html</a>
10 Aug. 2022	Ruling on Boux Avenue Ltd	Post shot and posted by one of the advertiser's SMIs but they were not identified	<a href="https://www.asa.org.uk/rulings/boux-avenue-ltd-a22-1156655-boux-avenue-ltd.html">https://www.asa.org.uk/rulings/boux-avenue-ltd-a22-1156655-boux-avenue-ltd.html</a>
7 Sep. 2022	Ruling on Signature Pubs Ltd t/a The Spiritualist	Lyds Butler and Rachel Kelly	<a href="https://www.asa.org.uk/rulings/signature-pubs-ltd-a22-1158775-signature-pubs-ltd.html">https://www.asa.org.uk/rulings/signature-pubs-ltd-a22-1158775-signature-pubs-ltd.html</a>
7 Sep. 2022	Ruling on Elizabeth O'Donnell	Eve and Jessica Gale (the Gale Twins)	<a href="https://www.asa.org.uk/rulings/elizabeth-o-donell-a22-1157366-elizabeth-o-donell.html">https://www.asa.org.uk/rulings/elizabeth-o-donell-a22-1157366-elizabeth-o-donell.html</a>
21 Sep. 2022	Ruling on Collab House Ltd	Ellie O'Donnell and Kady McDermott	<a href="https://www.asa.org.uk/rulings/collab-house-ltd-a22-1155578-collab-house-ltd.html">https://www.asa.org.uk/rulings/collab-house-ltd-a22-1155578-collab-house-ltd.html</a>
12 Oct. 2022	Ruling on Clarson Ltd t/a	Tyne-Lexy Clarson	<a href="https://www.asa.org.uk/rulings/clarson-ltd-a22-1148028-clarson-ltd.html">https://www.asa.org.uk/rulings/clarson-ltd-a22-1148028-clarson-ltd.html</a>
30 Nov. 2022	Ruling on Molly Maison	Molly-Mae Hague and Tommy Fury	<a href="https://www.asa.org.uk/rulings/molly-maison-a22-1157155-molly-maison.html">https://www.asa.org.uk/rulings/molly-maison-a22-1157155-molly-maison.html</a>
11 Jan. 2023	Ruling on DT Fitness t/a dtfitness_31	DT Fitness (personal trainer)	<a href="https://www.asa.org.uk/rulings/dt-fitness-a22-1161673-dt-fitness.html">https://www.asa.org.uk/rulings/dt-fitness-a22-1161673-dt-fitness.html</a>
8 Feb. 2023	Ruling on The Muff Liquor Company	Laura Whitmore	<a href="https://www.asa.org.uk/rulings/the-muff-liquor-company-a22-1159956-the-muff-liquor-company.html">https://www.asa.org.uk/rulings/the-muff-liquor-company-a22-1159956-the-muff-liquor-company.html</a>
15 Feb. 2023	Ruling on Charlotte Dawson	Charlotte Dawson	<a href="https://www.asa.org.uk/rulings/charlotte-dawson-g22-1160111-charlotte-dawson.html">https://www.asa.org.uk/rulings/charlotte-dawson-g22-1160111-charlotte-dawson.html</a>
10 May 2023	Ruling on HQD Tech UK	George Baggs	<a href="https://www.asa.org.uk/rulings/hqd-tech-uk-a22-1163022-hqd-tech-uk.html">https://www.asa.org.uk/rulings/hqd-tech-uk-a22-1163022-hqd-tech-uk.html</a>
10 May 2023	Ruling on Green Fun Alliance Ltd t/a Elf Bar	Account '@Panaxhe_'	<a href="https://www.asa.org.uk/rulings/green-fun-alliance-ltd-a22-1162007-green-fun-alliance-ltd.html">https://www.asa.org.uk/rulings/green-fun-alliance-ltd-a22-1162007-green-fun-alliance-ltd.html</a>
17 May 2023	Ruling on LIFT Aesthetics t/a lift.aesthetics	Carl Woods	<a href="https://www.asa.org.uk/rulings/lift-aesthetics-a22-1158433-lift-aesthetics.html">https://www.asa.org.uk/rulings/lift-aesthetics-a22-1158433-lift-aesthetics.html</a>

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**Table A2.** Continued.

Date issued	ASA Ruling	SMI(s) involved	Ruling URL (last accessed 8 March 2024)
31 May 2023	Ruling on Litty Liquor	ArrDee	<a href="https://www.asa.org.uk/rulings/litty-liquor-a22-1179810-litty-liquor.html">https://www.asa.org.uk/rulings/litty-liquor-a22-1179810-litty-liquor.html</a>
19 Jul. 2023	Ruling on WeShop Holdings Ltd t/a WeShop	Ariana Ajtar, Mary Bedford and Rebecca Lamb	<a href="https://www.asa.org.uk/rulings/weshop-holdings-ltd-17-07-2023-G23-1182467.html">https://www.asa.org.uk/rulings/weshop-holdings-ltd-17-07-2023-G23-1182467.html</a>
23 Aug. 2023	Ruling on Eliza Rose Watson t/a elizarosewatson (not upheld)	Eliza Rose Watson	<a href="https://www.asa.org.uk/rulings/eliza-rose-watson-g23-1201884-eliza-rose-watson.html">https://www.asa.org.uk/rulings/eliza-rose-watson-g23-1201884-eliza-rose-watson.html</a>
13 Sep. 2023	Ruling on Vapes-Bars Ltd	Accounts of 5 SMIs: @asmxlls, @silvanuslnd, @perkioldn, @angelysiaa and @nathanbyrnee	<a href="https://www.asa.org.uk/rulings/vapes-bars-ltd-a23-1199003-vapes-bars-ltd.html">https://www.asa.org.uk/rulings/vapes-bars-ltd-a23-1199003-vapes-bars-ltd.html</a>
13 Sep. 2023	Ruling on ZOVOO (Shenzhen) Technology Co Ltd	Izzi Alice Mitchell	<a href="https://www.asa.org.uk/rulings/zovoo-shenzhen-technology-co-ltd-a23-1198565-zovoo-shenzhen-technology-co-ltd.html">https://www.asa.org.uk/rulings/zovoo-shenzhen-technology-co-ltd-a23-1198565-zovoo-shenzhen-technology-co-ltd.html</a>
13 Sep. 2023	Ruling on Innofly HK Ltd	Account of @vanillaspit	<a href="https://www.asa.org.uk/rulings/innofly-hk-ltd-a23-1200395-innofly-hk-ltd.html">https://www.asa.org.uk/rulings/innofly-hk-ltd-a23-1200395-innofly-hk-ltd.html</a>
20 Sep. 2023	Ruling on Global Brands Ltd	Charly Anne Collard	<a href="https://www.asa.org.uk/rulings/global-brands-ltd-g23-1199017-global-brands-ltd.html">https://www.asa.org.uk/rulings/global-brands-ltd-g23-1199017-global-brands-ltd.html</a>
11 Oct. 2023	Ruling on BMORvape	Amelia Beavis	<a href="https://www.asa.org.uk/rulings/bmorvape-a23-1205200-bmor.html">https://www.asa.org.uk/rulings/bmorvape-a23-1205200-bmor.html</a>
8 Nov. 2023	Ruling on Voopoo International Inc	Chantel Surge, Charlie Morrison and Lorenx	<a href="https://www.asa.org.uk/rulings/voopoo-international-inc-a23-1205198-voopoo-international-inc.html">https://www.asa.org.uk/rulings/voopoo-international-inc-a23-1205198-voopoo-international-inc.html</a>
8 Nov. 2023	Ruling on Vapresso	Ethan Overton and Lucky Ben	<a href="https://www.asa.org.uk/rulings/vapresso-a23-1205197-vapresso.html">https://www.asa.org.uk/rulings/vapresso-a23-1205197-vapresso.html</a>
8 Nov. 2023	Ruling on Geekvape Electronic Cigarettes (UK) Ltd	Lucci Love	<a href="https://www.asa.org.uk/rulings/geekvape-electronic-cigarettes-uk-ltd-a23-1205195-geekvape-electronic-cigarettes-uk-ltd.html">https://www.asa.org.uk/rulings/geekvape-electronic-cigarettes-uk-ltd-a23-1205195-geekvape-electronic-cigarettes-uk-ltd.html</a>
22 Nov. 2023	Ruling on Cloud City Vapez UK Ltd	Harleigh Perez	<a href="https://www.asa.org.uk/rulings/cloud-city-vapez-uk-ltd-a23-1205196-cloud-city-vapez-uk-ltd.html">https://www.asa.org.uk/rulings/cloud-city-vapez-uk-ltd-a23-1205196-cloud-city-vapez-uk-ltd.html</a>
22 Nov. 2023	Ruling on D&A Cosmetics Ltd	Aimee Crowder	<a href="https://www.asa.org.uk/rulings/d-a-cosmetics-ltd-g23-1201871-da-cosmetics-ltd.html">https://www.asa.org.uk/rulings/d-a-cosmetics-ltd-g23-1201871-da-cosmetics-ltd.html</a>
6 Dec. 2023	Ruling on South African Foods Ltd t/a Candy Store 4 You	Saira Hayati	<a href="https://www.asa.org.uk/rulings/south-african-foods-ltd-a23-1202159-south-african-foods-ltd.html">https://www.asa.org.uk/rulings/south-african-foods-ltd-a23-1202159-south-african-foods-ltd.html</a>
3 Jan. 2024	Ruling on Em Rose	Em Rose	<a href="https://www.asa.org.uk/rulings/em-rose-g23-1212743-em-rose.html">https://www.asa.org.uk/rulings/em-rose-g23-1212743-em-rose.html</a>
3 Jan. 2024	Ruling on Erdem Clinic	Millie Bracewell	<a href="https://www.asa.org.uk/rulings/erdem-clinic-a23-1209226-erdem-clinic.html">https://www.asa.org.uk/rulings/erdem-clinic-a23-1209226-erdem-clinic.html</a>
14 Feb. 2024	Ruling on Supreme CBD Ltd t/a Supreme CBD	John Hartson, Anthony Fowler and Matt Le Tissier	<a href="https://www.asa.org.uk/rulings/supreme-cbd-ltd-g23-1198642-supreme-cbd-ltd.html">https://www.asa.org.uk/rulings/supreme-cbd-ltd-g23-1198642-supreme-cbd-ltd.html</a>

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**Table A2.** Continued.

Date issued	ASA Ruling	SMI(s) involved	Ruling URL (last accessed 8 March 2024)
21 Feb. 2024	Ruling on Rebecca Louise t/a rebeccalouise95	Rebecca Louise	<a href="https://www.asa.org.uk/rulings/rebecca-louise-g23-1219454-rebecca-louise.html">https://www.asa.org.uk/rulings/rebecca-louise-g23-1219454-rebecca-louise.html</a>
13 Mar. 2024	Ruling on Global Brands Ltd	Danielle Walsh	<a href="https://www.asa.org.uk/rulings/global-brands-ltd-a23-1215641-global-brands-ltd.html">https://www.asa.org.uk/rulings/global-brands-ltd-a23-1215641-global-brands-ltd.html</a>
3 Apr. 2024	Ruling on Not Guilty Food Co Ltd t/a The Skinny Food Co	Katie Price	<a href="https://www.asa.org.uk/rulings/not-guilty-food-co-ltd-g23-1215538-not-guilty-food-co-ltd.html">https://www.asa.org.uk/rulings/not-guilty-food-co-ltd-g23-1215538-not-guilty-food-co-ltd.html</a>