

Brazilian Advertising Self-Regulatory Council (CONAR) issues Digital Influencers: Evolution, Transparency, and the New Rea

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Intellectual Property and marketing law - fields that have undergone well-documented transformations over the past two decades - have witnessed radical changes in how trademark assets interact with the public. However, this dynamic has deeply changed by the rise and consolidation of digital influencers. Today, content creators are not merely supplementary channels; rather, they form the backbone of countless campaigns, driving consumer decisions with an unprecedented level of engagement, proximity, and perceived authenticity. Consequently, influencer advertising has come to play a fundamental role not only in commercial strategies but also in building, strengthening, and defending brand reputation. This colossal impact, nevertheless, requires a dynamic regulatory framework to ensure transparency and protect consumers' good faith.

Given this reality, the launch of the first Guide on Advertising by Digital Influencers by the Brazilian Advertising Self-Regulatory Council (CONAR) in 2021 represented a historical milestone. Prior to this document, the market operated within a regulatory gray area. The original version brought indispensable legal certainty to the sector, by establishing the basic premise that the combination of compensation (financial or otherwise) and editorial control by the advertiser constitutes advertising. It was this initiative that established the standard for clear campaign identification, popularizing the use of tags such as #publi (ad) and #parceria (partnership).

The digital ecosystem, however, is relentless in its speed of transformation. Over the past five years, the market has changed drastically, moving far beyond the era of simple sponsored posts. The sector has witnessed the explosion of affiliate marketing—where compensation is tied directly to performance via trackable links—and the emergence of content creators generated by Artificial Intelligence. Concurrently, a crucial urgency has emerged regarding the hyper-vulnerability of children and adolescents online, driven by legal milestones such as the Digital ECA (Statute of the Child and Adolescent). The 2021 guidelines, therefore, required realignment in order to address these new and complex dynamics.

Recognizing this paradigm shift, the entity recently launched an updated edition of its material. This release is of paramount importance, as it represents an essential modernization that aligns Brazilian advertising self-regulation with contemporary demands for governance, clarity, and the protection of digital rights.

When comparing the 2021 directives with the 2026 text, several structural and carefully tailored updates become apparent. Among the main innovations implemented, the following stand out:

- **Affiliation and the New Concept of Advertising:** The new edition explicitly addresses affiliate networks. Performance-based compensation, such as the simple promotion of redirectable links and discount coupons, is now unequivocally classified as commercial action. Indirect benefits and barter, which were already monitored, now fall under strict rules leaving no room for doubt regarding the mandatory nature of advertising disclosures.
- **Artificial Intelligence:** A completely new frontier has been regulated. The current manual provides specific guidelines for the use of AI, requiring absolute transparency when the broadcasted material or the avatars themselves are artificially generated, thereby mitigating the risks of misleading the consumer.
- **Protection of Children and Adolescents:** In line with legislative advancements, parameters applicable to the youth audience have become considerably stricter. Sponsorship disclosures for this demographic must be highly instructional and unmistakable. The Council reinforces the absolute prohibition against exploiting minors' inexperience, recommending additional care and active supervision by legal guardians in such campaigns.
- **Governance and Shared Responsibility:** From a legal compliance perspective, this is one of the most vital advancements. The new framework elevates compliance standards, emphasizing co-responsibility. Advertisers and agencies must adopt proactive measures and conduct prior curation—avoiding partners with a history of ethical violations—as well as monitor campaigns and maintain records demonstrating adherence to these best practices. From this perspective, the selection and oversight of contractors have definitively become part of brands' reputational risk management strategies.

Given this scenario, content promoters must adopt redoubled precautions to avoid infringing the established norms. The era of camouflaging the commercial tag among dozens of hashtags at the end of a caption is over. The partnership disclosure must be conspicuous, unambiguous, and immediate. These professionals are required to demonstrate candor in their affiliations, respect the severe restrictions of certain segments (such as betting and alcoholic beverages), and assume a collaborative posture in adapting promotional pieces alongside advertisers.

Beyond consumer protection, the recent guidelines also contribute to preserving a fairer competitive environment among economic agents. By establishing precise standards for the conduct of advertisers, agencies, and influencers, the framework reinforces clarity as an essential element for building ethical commercial relations and ensuring appropriate communication within digital environments.

Transparency should never be viewed as an obstacle to engagement; on the contrary, it is the foundation of sustainable trust. CONAR's 2026 revision highlights that influence brings inherent responsibilities. For professionals and legal practitioners working to shield brands and ensure fair competition, this update represents a commendable maturation, ensuring that the market continues to thrive with integrity and legal certainty.

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