

Insta-harms make Insta-money

How unregulated and unqualified social media influencers profit while spreading disinformation and causing harms online

Research Report

Jordan Guiao

Research Fellow, Centre for Responsible Technology

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Level 1, Endeavour House, 1 Franklin St
Canberra, ACT 2601
Tel: (02) 61300530
Email: mail@tai.org.au
Website: www.tai.org.au
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Summary

'Influencers' in social media can amass significant followings and audience reach. The influencer/content creator industry is on an upwards trajectory with many influencers becoming popular public figures and generating material revenue from their profiles.

Influencers who are able to monetise their social media activity are essentially advertising channels. However, the regulatory disparity between influencer advertising and mainstream advertising is significant, with only two self-regulating codes overseeing influencers. Further, influencers require no qualifications or certifications, despite the industry growing, delivering revenue and able to reach millions of Australians.

This is of particular concern within sensitive categories like health and finance, where regulations and qualifications are needed given the potential harms and risks posed in providing advice and giving information in those categories.

We have seen examples of influencers promoting extremely damaging conspiracy theories and undermining public health orders, and providing financial advice which they are not licensed for.

The Australia Institute's Centre for Responsible Technology recommend that the following be investigated to address the clear lack of regulation and oversight in the influencer industry:

1) Regulation parity between influencer advertising and 'mainstream' advertising.

Given the growth and momentum of influencer advertising, the regulations overseeing mainstream advertising should also cover relevant influencer activity. These should include the appropriate checks for content accuracy, quality and transparency to prevent inaccurate and problematic information from being shared. The regulation also needs to account for the entire profile of influencers, and not just individual posts being monetised, given that followers consider their whole profiles as part of overall engagement.

2) The Australian Competition and Consumer Commission (ACCC) to clarify and reassess its 'proportionality threshold' for acting on influencer content – Influencer content is technically under Consumer Law but is not properly monitored. Individual accounts may not have significant impact but groups of accounts can have material impact when taken together. This layer of medium sized profiles is causing known damage and are not being investigated. The ACCC should clarify its criteria for acting on influencer content and consider its impact as a whole industry, rather than against individual profiles.

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- 3) Qualifications or certifications needed for sensitive categories like health and finance** - any influencer wishing to provide advice in these topics should have the necessary qualifications and licenses required, otherwise risk significant penalties and deplatforming in line with the rest of the industry. Compliance and monitoring within specific regulators like ASIC should officially extend to influencers. Properly qualified accounts could have markers which differentiate them, like official watermarks or labels verifying them as professionals and highlighting profiles that are unqualified.

Introduction

'Mummy blogger' Marcia Leone commands an Instagram profile with approximately 265,000 followers. She posts well produced photos and videos of herself and her family, with a focus on fashion and lifestyle tips targeted towards mothers. These include recipes, inspirational quotes, lifestyle recommendations, 'life hacks', and general 'motherhood' advice including breastfeeding, emotional validation and parenting recommendations.

Her profile is large enough that she is able to generate paid advertising sponsorships, including with Seed Heritage, a clothing brand, and Nutra Organics, a 'health and wellbeing' brand which sells food, skincare and cosmetic products. Her profile is also successful enough that she was able to launch her own label of loungewear and accessories named after her social media profile 'Not So Mumsy'. She sells clothing through this brand online including through her social media. Her followers include mostly women who are themselves mothers.

Leone is a former marketing manager with no qualifications in health, and yet her social media advice often includes recommendations about parenting, nutrition and life habits. Leone is also a COVID sceptic, and spread misinformation that questioned the efficacy of the COVID vaccine and the seriousness of the disease, spreading lies about its effects including that the vaccine would "make women sterile and cause so much long term damage and death".¹

Elly Miles is a former reality TV star who posts about fitness, 'nutrition' and lifestyle tips on her Instagram profile for her over 200,000 followers. She has no qualifications in fitness and nutrition. She is able to monetise her profile as a franchise manager for a fitness business, and has secured paid sponsorships from brands like Rana Pasta, a pasta company and Midnight Mischief Sleepwear, a pyjamas and loungewear company.

Her followers are likely mostly generated from her reality TV days. Miles drew wide condemnation when she promoted a 'carnivore (meat only) diet' and claimed that fruits and vegetables were "toxic".²

Leone and Miles are part of a growing number of social media 'influencers' who profit from their social media presence and content development. They also promote advice to their

¹ Pedestrian (2021), *These Influencers are known COVID-deniers, anti-vaxxers &/or attended the protests, just FYI*, <https://www.pedestrian.tv/online/influencers-anti-vaxxer-covid-conspiracy-theorist-anti-lockdown-protest/>

² Galea (2021), *Elly Miles called fruit & veg 'toxic' while promoting a meat-only diet in now-deleted IG story*, <https://www.pedestrian.tv/entertainment/elly-miles-carnivore-diet-instagram-backlash/>

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audiences for which they have no qualifications, including those that are inaccurate and potentially dangerous, and for which they have suffered no material consequences.

For the purposes of this paper, we define 'influencers' as personalities who have amassed sizeable followings on social media platforms by developing regular content – in particular Instagram, YouTube, TikTok, and Facebook, platforms that encourage and reward 'creator' output.

We also focus on influencers who have developed a sufficiently large and often dedicated following that they are able to monetise their profiles, whether through advertising and brand sponsorships, platform revenue, 'pay per post' transactions, or businesses reliant on their online profiles.

The widespread use of social media platforms has meant that social media channels have become significant channels for marketing, promotion and audience engagement.

Influencers can be approached by marketing agencies or brands directly to use their channels as sponsored promotional initiatives. They can also gain revenue directly from social media platforms (like YouTube) who place advertisements on their channels based on their reach and relevance. There are also options for in-kind value and free gifts/merchandise/products as compensation for promotional activities.

In many cases, influencers have extended beyond channels for promotion and have developed loyal followings, supporters who take their advice and the information provided seriously.

This paper specifically looks at influencers within sensitive categories like health and wellbeing, fitness, nutrition and finance who are not qualified to be providing any type of advice or information within those distinct content categories.

We are therefore not concerned with qualified professionals *who happen to be influential* on social platforms (including journalists, politicians, health professionals, actors, business leaders, etc.).

These chosen categories have the potential for significant harm and damage based on incorrect information and unqualified advice provided. In fact, it is a criminal offence to provide unlicensed medical or financial advice, and yet many influencers are doing just that on social media.

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The influencer industry is profitable and growing

The unregulated and under-scrutinised nature of the influencer industry means that there have been no consistent figures being used for the value of the industry in Australia. Even the current bodies overseeing the industry, such as the Australian Association of National Advertisers (AANA) and industry group Australian Influencer Marketing Council (AiMCO) or their member agencies who work actively in this space do not provide consistent figures.

Consulting firm PWC Australia states that the Australian online advertising industry is worth \$9.3 billion at the end of 2020, expected to grow at 5.5% to \$12.4 billion by 2025. Of this figure, video advertising is worth \$1.9 billion.³ This is consistent with figures from the Interactive Advertising Bureau (the peak body for online advertising in Australia) who reported that digital advertising spend reached \$9.5 billion in 2020, with video accounting for \$1.9 billion.⁴

There has been a consistent upward trend in online advertising budgets specifically with digital video advertising including social and mobile and indicators point to this trend continuing in Australia.

Globally, the influencer industry is estimated to be worth over \$7 billion in 2021.⁵ This global success and the consistent trend of increased advertising budgets for social and mobile video advertising is enough incentive to drive 68% of marketers and brands to conduct influencer marketing activity, and will account for approximately 20% of their marketing budgets.⁶

There are also some credible quantitative and qualitative surveys that have been conducted, as well as targeted interviews with specific influencers which provide some figures.

For example, according to HypeAuditor, a specialist reporting solution which tracks influencer performance and revenue, the influencer industry in Australia is well developed,

³ PwC Australia (2021), *Internet Advertising*, <https://www.pwc.com.au/industry/entertainment-and-media-trends-analysis/outlook/internet-advertising.html>

⁴ Cameron (2021), *IAB: Australia's digital advertising market makes big comeback to grow in 2020*, <https://www.cmo.com.au/article/686452/iab-australia-digital-advertising-market-makes-big-comeback-grow-2020/>

⁵ B&T (2021), *Instagram influencer marketing set to become a \$7.4B industry in 2021*, <https://www.bandt.com.au/instagram-influencer-marketing-set-to-become-a-7-4b-industry-in-2021/>

⁶ Insider Intelligence (2021), *Influencer marketing stats: How creators have impacted businesses in 2021*, <https://www.businessinsider.com/influencer-marketing-important-for-brands-2021-5?r=AU&IR=T>

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with a spread of profiles ranging from mega-influencers (1 million + followers) to nano-influencers (up to 5k followers).⁷

HypeAuditor is one of the few agencies that have conducted comprehensive quantitative surveys valuing influencer payments.

Their surveys found that influencer payments can vary wildly, depending on category niche, engagement rate, production values of content and follower count but on average, Australian influencers with more than 1 million followers can charge almost \$20,000 per sponsored post.

Those with more modest followers in the hundreds of thousands but less than a million can charge up to \$2,000 per post, and those with tens of thousands of followers can charge up to \$200 per post. Engagement rates can also factor in which could increase payment even for those with smaller followings.⁸

The global influencer industry is on an upwards trajectory, with increasing budgets being spent. In Australia this trend will follow a similar pattern, with many Australian influencers already having substantial followings and commercial activity.

⁷ Wilson (2020), *Here's how much Australian influencers earn per post – from nano-influencers to full-blown celebrities*, <https://www.businessinsider.com.au/australian-influencer-earnings-2020-2020-12>

⁸ Ibid.

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Influencers are unregulated

Content categories/industries such as fitness, food and nutrition, health and wellbeing and finance have significant regulatory oversight, both in the professional practice of each category, as well as in advertising and promoting material as part of that category. These categories are regulated because they have the potential to affect audiences in significant ways, particularly as it relates to health and wellbeing, and financial advice. However, when it comes to social media influencers within that category, there is scant regulatory oversight available in comparison to equivalent channels and activity outside of social media.

The table below shows significant regulatory disparity overseeing social media influencers versus the equivalent activities within each subject category:

Influencer Category	Category Regulation Applicable	Equivalent Influencer Regulation Applicable
Fitness	Competition and Consumer Act Self-regulating industry code of practice Broadcasting Services Act Internet Industry Code of Practice Content Services Code ACMA regulatory standards AANA Code of Ethics	AANA Code of Ethics Self-regulating industry code of practice Competition and Consumer Act
Food & Nutrition	Australia New Zealand Food Standards Code State Health Departments Food regulation Therapeutic Goods Act Therapeutic Goods Regulations Competition and Consumer Act Therapeutic Goods Advertising Code Broadcasting Services Act	AANA Code of Ethics Self-regulating industry code of practice Competition and Consumer Act

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	<p>Internet Industry Code of Practice</p> <p>Content Services Code</p> <p>ACMA regulatory standards</p> <p>AANA Code of Ethics</p>	
<p>Health & Medical/General Wellness</p>	<p>Australian Immunisation Register</p> <p>Australian National Health Preventative Health Agency Act</p> <p>Healthcare Identifiers Act</p> <p>National Health Act</p> <p>Therapeutic Goods Act</p> <p>Therapeutic Goods Regulations</p> <p>Competition and Consumer Act</p> <p>Therapeutic Goods Advertising Code</p> <p>Health Practitioner Regulation National Law Act</p> <p>State & Territory Health Practitioner Regulation National Law</p> <p>Broadcasting Services Act</p> <p>Internet Industry Code of Practice</p> <p>Content Services Code</p> <p>ACMA regulatory standards</p> <p>AANA Code of Ethics</p>	<p>AANA Code of Ethics</p> <p>Self-regulating industry code of practice</p> <p>Competition and Consumer Act</p>
<p>Finance</p>	<p>Australian Financial Services License</p> <p>Corporations Act</p> <p>ASIC Act</p> <p>National Credit Act</p> <p>National Credit Code</p> <p>Competition and Consumer Act</p>	<p>AANA Code of Ethics</p> <p>Self-regulating industry code of practice</p> <p>Competition and Consumer Act</p>

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	Broadcasting Services Act Internet Industry Code of Practice Content Services Code ACMA regulatory standards AANA Code of Ethics	
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To date influencers are regulated by only two Codes – the Australian Association of National Advertisers (AANA) Code of Ethics – a self-regulating code with an associated complaints mechanism through the AdStandards group, and a voluntary industry code proactively developed through the Australian Influencer Marketing Council (AiMCO) and its industry members.

The AANA Code of Ethics applies to all advertising and advertisers in Australia. It is a self-regulatory system which falls broadly under the Australian Competition and Consumer Commission (ACCC) Australian Consumer Law paradigm, with specific requirements for advertising not to mislead or deceive and give out false advice. The main difference between the two is that the ACCC only takes action after a test of proportionality, waiting for an undefined threshold including the potential for widespread public detriment, or repeat offenders. However, the ACCC have not recorded any breaches or delivered any fines to social media influencers in this capacity to date.⁹ This ‘proportionality threshold’ is also problematic given the volume of smaller to medium sized social media influencers which may not be deemed large enough as individual cases, but can make a real impact when considered as a group. The lack of clarity around this proportionality threshold should be investigated.

Since February this year, the AANA updated its code of ethics to mandate that influencers must disclose commercial agreements in a clear, upfront manner that can be easily understood.¹⁰ The AANA Code handles consumer-reported complaints via the Ad Standards body, which processes every complaint registered. Since the update, Ad Standards have received approximately 40 complaints related to the influencer advertising disclosure set out by the Code, and 30 of those have been processed by their assessment panel.¹¹ These

⁹ Aubrey (2021), ‘So many are unethical’: Influencers forced to face up to the rules of advertising, <https://www.smh.com.au/lifestyle/life-and-relationships/so-many-are-unethical-influencers-forced-to-face-up-to-the-rules-of-advertising-20210428-p57n6d.html>

¹⁰ AANA (2020), *AANA launches new Code of Ethics*, <https://aana.com.au/2020/09/23/aana-launches-new-code-of-ethics/>

¹¹ Interview with Adstandards 2021

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complaints are largely to do with adequate disclosure of the advertising, and not necessarily with the content featured.

The AiMCO Code was developed to establish some form of governance framework within the industry. Small to medium marketing agencies who are trying to engage influencers in line with best practices had no dedicated oversight bodies to engage with, and approached the Audited Media Association of Australia (AAMA), a not for profit industry body for media auditors to co-develop one themselves. AiMCO was born out of a partnership between AAMA and these agencies out of the recognition that this was a key, underserved area.¹² The aim of AiMCO and its Code is essentially to try and create standards that are compliant and reasonable, and they were set up because the space is underserved and underregulated. The Code is in its infancy, only developed this year and tries to follow regulatory developments administered by the AANA and the ACCC. This highlights the lack of governance and standard regulation in this space.

Influencers with sufficient enough followers for monetisation are essentially advertising channels. At a minimum the regulatory disparity between 'mainstream' advertising channels – including print, television and online publishers, and social media profiles is significant. There are several legally enforceable codes with distinct regulatory bodies that govern mainstream advertising, while influencers only have two codes – one self-reporting and one voluntary – neither of which is used widely or enforced effectively, and the broad definition of consumer law under the ACCC which has not recorded any activity in this space to date.

The issues in this disparity are amplified significantly when looking at the context of the highlighted categories – namely fitness, food, health and finance.

¹² Interview with AiMCO 2021

Influencers are unqualified

While influencers use their profiles as advertising channels to generate revenue, they are also exerting broader influence with their followers and entering into territory that can be reasonably interpreted as providing advice for health, nutrition and financial investment matters. This leap from simply promoting products on behalf of advertisers to actively providing advice and information for which they have no qualifications is a significant safety and regulatory risk that should be exposed and scrutinised further.

Health and financial advice are particularly problematic. Health professionals undergo years of education and training to gain the necessary qualifications and experience to provide health and care to the public. They are subject to multiple regulations, codes of ethics, rigorous oversight systems and frameworks of accountability. Financial advice is similarly strictly regulated, with a license required from the financial regulator which must be updated annually to be authorised to provide financial information to the public.

Influencers in these categories require no qualifications to provide advice to their followers, which can include tens of thousands if not hundreds of thousands of people.

This clear disparity in qualifications is outlined in the table below:

Occupation	Qualifications required	Equivalent Influencer Qualifications required
General Practitioner (Family Doctor) who gives health advice including for vaccination	Bachelor of Medicine Doctor of Medicine Completion of Graduate Australian Medical School Admissions Test Completion of recognised 12 months internship Registration with the Medical Board of Australia Registration with General Practitioner Fellowship	None
Pharmacists (who administer medicine and can give health	Bachelor of Science in Chemistry/Pharmacy	None

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advice including for vaccination)	<p>Completion of recognised 12 months internship</p> <p>Completion of Pharmacy Board of Australia registration exam</p> <p>Registration with the Pharmacy Board of Australia</p>	
Allied health professionals (e.g. physiotherapists, dietitians, psychologists) who give health advice on a range of health outcomes	<p>Relevant Bachelor degree</p> <p>Registration with Australian Health Practitioner Regulation Agency</p> <p>Membership with a self-regulating professional organisation with clear code of ethics and requirements</p>	None
Personal Trainers & Fitness professionals	<p>Relevant diploma or certification (e.g. Certificate IV in Fitness)</p> <p>Registration with Fitness Australia or equivalent professional industry body</p> <p>Appropriate insurance coverage</p>	None
Life Coaches	<p>Secondary school</p> <p>Preferred coaching certification or equivalent work experience within chosen niche/industry of coaching</p>	None
Financial adviser	<p>Relevant Bachelor degree</p> <p>Completion of Financial Adviser Standards and Ethics Authority examination</p> <p>Australian Financial Services license</p> <p>Registration with Financial Advisers Register</p> <p>Completion of recognised 12 months internship</p> <p>Annual compliance requirements to maintain AFS license</p>	None

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Both the AANA and AiMCO have confirmed that no qualifications are necessary to become an influencer and to generate revenue and profit from providing advice.

There is little wonder that these unregulated and unqualified influencers are causing significant harms through their profiles.

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Influencers can cause significant damage

HEALTH & WELLNESS CATEGORY

‘Wellness’ influencers who curate their profiles using a combination of content themes around nutrition, exercise, lifestyle and health choices are awash with conspiracy theories and problematic ideas like anti-vaccination sentiment.

This category has been particularly vulnerable to being hijacked by far-right conspiracy groups like QAnon. A researcher from Concordia University in Canada dubbed them “pastel QAnon”¹³ – wellness influencers who peddle conspiracy theories by presenting aesthetically pleasing images and content, thus making audiences likely to be more susceptible to the disinformation being promoted.

The wellness profiles and groups encourage alternative therapies and views, and are ripe for exploitation by conspiracy theorists who play on this mindset.¹⁴ These ideas are also mixed with real feelings of fear and uncertainty, as well as mistrust in institutions that have been tangled with and hijacked by conspiracy groups, turning once fringe ideas and exposing them to a larger, more mainstream audience.¹⁵ Often conspiracies are couched through ideas of personal choice, ‘awakening’ and ‘freedom,’ with influencers casting themselves as ‘enlightened leaders’.¹⁶

While the causes and nuances can be complex, what is clear is that many wellness influencers use their profiles to spread disinformation and conspiracy theories. Coupled with social media algorithms that encourage the most emotive and most divisive content, wellness influencers are promoting problematic and potentially dangerous content, and in some cases generating revenue from it, for which there is currently little recourse.

¹³ Gillespie (2020), ‘Pastel QAnon’: *The female lifestyle bloggers and influencers spreading conspiracy theories through Instagram*, <https://www.sbs.com.au/news/the-feed/pastel-qanon-the-female-lifestyle-bloggers-and-influencers-spreading-conspiracy-theories-through-instagram>

¹⁴ McGowan (2021), *How the wellness and influencer crowd serve conspiracies to the masses*, <https://www.theguardian.com/australia-news/2021/feb/25/how-the-wellness-and-influencer-crowd-served-conspiracies-to-the-masses>

¹⁵ Aubrey (2020), ‘Playing with fire’: *The curious marriage of QAnon and wellness*, <https://www.smh.com.au/lifestyle/health-and-wellness/playing-with-fire-the-curious-marriage-of-qanon-and-wellness-20200924-p55yu7.html>

¹⁶ Bogle (2020), *How Instagram wellness became a gateway drug for conspiracy theories*, <https://www.abc.net.au/news/science/2020-06-16/wellness-instagram-influencers-veer-into-conspiracy-theories/12348776>

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COVID-19

The current pandemic is a particularly problematic time that can be made worse by unqualified influencers who weigh in on public health issues. Already conspiracy theories and disinformation related to the pandemic run rampant on social media platforms unassisted, and influencers serve to magnify these issues.¹⁷

Research by Center for Countering Digital Hate revealed that a large proportion of COVID disinformation and anti-vaccination sentiment globally was being spread by a specific groups of influencers.¹⁸ These influencers have large followings, produce high volumes of anti-vaccine content and have seen rapid growth of their social media profiles during the pandemic. Despite repeated violations of the terms of service for the social media platforms, most in this identified group maintained their presences online until the report exposed their activities.¹⁹ These influencers are unqualified and use the profiles to spruik products, promote alternative health businesses and generate revenue from their platforms. Australia faced a similar group who were also “misinformation superspreaders” sharing conspiracies and undermining public health orders.²⁰

These influencers come in all shapes and sizes, using disparate topics and angles to spread confusion about the pandemic and facilitate distrust on official information. ‘TikTok guy’ Jon-Bernard Fairouz, who rose to his 5 seconds of fame by accurately ‘predicting’ the NSW Health daily case numbers for a time was revealed to be an anti-lockdown advocate who attended an illegal rally and encouraged anti-health behaviours.²¹ Byron Bay influencer Sally Mustang openly spreads anti-science messages and claims to “optimise (her) immune system” with breathing exercises.²² Former reality TV personality Bill Goldsmith spoke of counterfeit vaccination passports in order to avoid being vaccinated, and was also a believer

¹⁷ Papenfuss, (2021), *12 Influencers are behind most anti-vac hoaxes on social media, surprising research reveals*, https://www.huffpost.com/entry/anti-vaccine-disinformation-dozen-social-media-influencers-covid-19_n_609f0d84e4b03e1dd389db79

¹⁸ CCDH (2021), *The Disinformation Dozen, why platforms must act on twelve leading online anti-vaxxers*, https://252f2edd-1c8b-49f5-9bb2-cb57bb47e4ba.filesusr.com/ugd/f4d9b9_b7cedc0553604720b7137f8663366ee5.pdf

¹⁹ Bond (2021), *Just 12 people are behind most vaccine hoaxes on social media, research shows*, <https://www.npr.org/2021/05/13/996570855/disinformation-dozen-test-facebooks-twitthers-ability-to-curb-vaccine-hoaxes>

²⁰ Dudley-Nicholson (2021), *Australia’s top misinformation superspreaders*, <https://www.dailytelegraph.com.au/coronavirus/australias-top-10-misinformation-spreaders-use-facebook-to-share-dangerous-unproven-vaccine-data/news-story/1ce058d305f3d3f1ca22fcb48897d536>

²¹ Schneider (2021), *‘TikTok guy’ charged over Sydney anti-lockdown protest*, <https://www.news.com.au/national/nsw-act/tiktok-guy-charged-over-sydney-antilockdown-protest/news-story/b1339dc3c0ecba19d1385a1786299be6>

²² Pedestrian (2021), *Byron influencer Sally Mustang loses 1k+ followers after ‘Science is a theory’ protest post*, <https://www.pedestrian.tv/entertainment/sally-mustang-lost-followers-covid-post/>

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of the anti-malaria drug hydroxychloroquine as a cure for COVID.²³ Following the death of a 27 year old man from Sydney from COVID, influencer Maria Zee shared baseless claims and bizarre conspiracies surrounding the man's death.²⁴

In an environment of fear and uncertainty, unqualified influencers are spreading disinformation and deliberately undermining public health orders to the detriment of everyone's health and wellbeing.

FINANCE

Following a "significant rise in complaints" to the financial regulator Australian Securities and Investment Commission (ASIC), the regulator has warned influencers who give financial advice on social media that they could be fined accordingly.²⁵

Financial influencers provide a range of content on social media, including financial advice, saving tips and tricks, specific investment management, and information on new currencies like cryptocurrency.

It is a criminal offence to provide unlicensed financial advice²⁶, and yet many influencers are doing just that on social media, amassing significant followings online to the point that they are able to do it full-time.

The unregulated space means that information from financial influencers cannot be vetted for accuracy, and the personalities cannot provide clear transparency on any possible conflicts of interest or vested interests. The information is also provided within the overall environment of social media platforms that continue to come up with the challenge of mis- and disinformation, outright scams and cybersecurity issues.

²³ Buaya (2021), *Bachelorette star jokes he'll buy black market covid vaccine passport*, <https://www.msn.com/en-au/news/australia/bachelorette-star-jokes-hell-buy-black-market-covid-vaccine-passport/ar-AAKAoUA>

²⁴ Rachwani & Knaus (2021), *Misinformation on 27-year-old Sydney man's Covid-19 death spreads on social media*, <https://www.theguardian.com/world/2021/aug/05/misinformation-on-27-year-old-sydney-mans-covid-19-death-spreads-on-social-media>

²⁵ Turner-Cohen (2021), *Financial influencers could be fined \$133,000 for dud tips, regulator warns*, <https://www.news.com.au/finance/money/investing/financial-influencers-could-be-fined-133000-for-dud-tips-regulator-warns/news-story/9bbfbd4851a740dd72b465ddeef42ee>

²⁶ ASIC (2021), *ASIC cracks down on unlicensed advice*, <https://asic.gov.au/about-asic/news-centre/news-items/asic-cracks-down-on-unlicensed-advice/>

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The rise of financial influencers has coincided with a huge rise in speculative day trading in Australia, with as many as 3x the amount of new traders entering the market over the last 12 months. ASIC has warned that this kind of activity was “likely to lead to heavy losses”.²⁷

Following Australia’s first financial influencer conference in July, it is clear that there is a significant enough volume of financial influencers generating traction with their audiences, who are unqualified to be providing any of the advice they are giving.²⁸

²⁷ Derwin (2020), *You’re not a day trader and you’ll probably lose big time if you try to be one right now, Australia’s financial regulator has warned*, <https://www.businessinsider.com.au/australian-day-trading-asx-coronavirus-volatility-asic-speculation-gambling-2020-5>

²⁸ Derwin (2021), *Australia’s first ‘finfluencer’ conference highlighted just how vexed the world of online financial advice has become*, <https://www.businessinsider.com.au/australian-financial-influencers-marketlit-regulation-2021-7>

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Recommendations

As influencers take more share of Australian online advertising budgets, and as the industry develops further there needs to be appropriate regulation to ensure standards of professional conduct, fair and ethical behaviour and competitive practices are being applied. Given the widespread use of social media channels, there is no reason why those channels should be exempt from the same standards of regulation applied in other channels with commercial advertising.

Importantly, the regulatory disparity in specific categories like health and medical, food and nutrition and finance between social channels/influencer profiles and other activity is an oversight that needs to be corrected immediately. If influencers want to profit from and develop audiences within those categories, then they must get the relevant qualifications and licenses needed.

We recommend the following to address the lack of governance within the influencer industry:

1) Regulation parity between influencer advertising and ‘mainstream’ advertising.

Given the growth and momentum with influencer advertising, the regulations overseeing mainstream advertising should also cover relevant influencer activity. These should include the appropriate checks for content accuracy, quality and transparency to prevent inaccurate and problematic information from being shared. The regulation also needs to account for the entire profile of influencers, and not just the posts being monetised, given that followers consider their whole profiles as part of their engagement.

2) The Australian Competition and Consumer Commission (ACCC) to clarify and reassess its ‘proportionality threshold’ for acting on influencer content – Influencer content is technically under Consumer Law but is not properly monitored. Individual accounts may not have significant impact but groups of accounts can have material impact when taken together. This layer of medium sized profiles are causing known damage and are not being investigated. The ACCC should clarify its criteria for acting on influencer content and consider its impact as a whole industry, rather than against individual profiles.

3) Qualifications or certifications needed for sensitive categories like health and finance - any influencer wishing to provide advice in these topics should have the necessary qualifications and licenses required, otherwise risk significant penalties and deplatforming in line with the rest of the industry. Compliance and monitoring within specific regulators like ASIC should officially extend to influencers. Properly

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qualified accounts could have markers which differentiate them, like official watermarks or labels verifying them as professionals and highlighting profiles that are unqualified.

Conclusion

Regulation within the social media influencer industry is sorely lacking, despite the industry's growth and profitability. This is of particular concern in categories like health and finance, with unqualified influencers providing advice which could lead to significant harms. This sore lack of oversight should be addressed to prevent influencers from continuing to spread harmful mis- and disinformation, conspiracy theories and questionable information.