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Insuring Influencers: A Legal and Commercial Perspective on Insurance Policies for Social Media Content Creators

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ABSTRACT

The influencer economy has emerged as one of the most dynamic and powerful sectors in the global digital landscape. Social media influencers, with their unmatched ability to sway public opinion and consumer behaviour, have transformed platforms like Instagram, YouTube, and TikTok into thriving ecosystems of creativity and commerce. This unprecedented reach, however, comes with significant exposure to risks that traditional professions seldom encounter. From defamation lawsuits to reputational harm caused by deepfake AI and cyberattacks, influencers operate in an environment where their digital identity is both their greatest strength and their most significant vulnerability. Despite their growing prominence, most influencers remain underprepared to navigate these challenges. The existing insurance frameworks fail to address the unique risks influencers face, such as protection against data breaches, copyright infringements, account hacks, and legal liabilities arising from content-related disputes. The lack of tailored insurance solutions leaves influencers exposed to financial losses and reputational damage that can be career-ending. This paper investigates the pressing need for comprehensive insurance policies specifically designed for social media influencers. It explores the inadequacies of existing models, draws insights from global best practices, and examines legal and technological developments that could shape the future of influencer insurance. As the influencer market continues its meteoric rise, this study underscores the urgency of proactive measures to safeguard their careers and livelihoods, paving the way for a more secure and sustainable digital creator economy.

I. INTRODUCTION

In today's digital age, social media has become a cornerstone of modern communication and marketing, with social media influencers at the forefront of this transformation. What initially began as a platform for sharing meaningful and engaging content has now evolved into a multi-billion-dollar industry. The initial rise of influencers was tied to their ability to create high quality content that resonated with audiences. Their growing popularity presented an attractive

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opportunity for companies seeking new platforms for advertising and promotions. Yet, over time, the focus has shifted from quality content to quick followers acquisitions, often at the expense of meaningful engagement.

From an economic perspective, social media influencers have undoubtedly created new avenues for growth and marketing innovation. Brands increasingly rely on influencers to reach niche audiences more effectively and cost-efficiently than through traditional marketing channels. In 2023, the global influencer marketing industry was valued at over \$ 21 billion, with projections suggesting it will grow to \$ 24 billion by the end of 2025. This reflects the ever-growing significance of influencers in marketing strategies worldwide.² As the usage of social media increases among customers, brands start to apply more resources to operate its use as a marketing tool. Companies' management have stated that their spending on social media amounts - 12 % of their marketing budgets. Besides, the assumption of 89% marketers is that people's trust and loyalty to brand is closely connected with social media influencers. According to research 45.8% of marker specialists, who work in luxury, fashion and beauty spheres, are sure that micro-influencers with 10k – 100k followers guarantee much more profit than other types of influencers.³

As the influencer industry grows into a multi-billion-dollar global phenomenon, the need for tailored insurance solutions for social media influencers becomes increasingly critical. These digital creators operate in a high-stakes environment where their personal brand is their primary asset, and any threat to it can have severe financial and reputational consequences. Unlike traditional professions, influencers face unique risks such as defamation lawsuits, reputational damage caused by deepfake AI, cyberattacks, data breaches, and copyright disputes. Each of these challenges can result in significant losses, not just in income but also in credibility and audience trust, which are irreplaceable commodities in the digital economy. Despite these risks, most influencers remain underinsured or entirely uninsured due to the lack of policies designed specifically for their needs. Traditional insurance products fail to address the complexities of an influencer's work, which often blends personal and professional realms. For instance, influencers require protection against scenarios like public backlash from content controversies, liability for sponsored content, or the loss of access to their platforms due to hacking. Furthermore, as their influence and earnings grow, so do the legal and financial stakes, making

² Q.A. Maashani, *The Economic Power of Social Media Influencers: Opportunities and Challenges*, *Oman Observer* (Nov. 18, 2024), <https://www.omanobserver.om/article/1159990/business/economy/the-economic-power-of-social-media-influencers-opportunities-and-challenges>.

³ O.L. Vyatkina, Chapter 187: *The Impact of Influencer Marketing on the Global Economy*, *European Proceedings of Social and Behavioural Sciences* (Mar. 2020), <https://www.europeanproceedings.com/article/10.15405/epsbs.2020.03.187#>.

comprehensive coverage indispensable.

The requirement for insurance in this sector goes beyond individual security—it is about sustaining a rapidly evolving industry that contributes significantly to global commerce. Developing policies that cater specifically to influencers is not just a precautionary measure; it is a necessary step to ensure the longevity and resilience of this new-age profession.

(A) What risks do Social media influencers face?

One word could potentially sum up the risks of social media influencers. We live in a litigious society, and many people sue at the drop of a hat. When influencers create social media posts for hundreds of thousands of people to see, there's a good chance that someone will find something they consider actionable. If it isn't catchy and even controversial, a campaign may not attract the number of views a brand targets. As an influencer, people might view your influence as inauthentic or misleading. Perhaps the product didn't work for them as well as it did for you. Maybe someone other than the brand that engaged the influencer owned the product or method.⁴

Social media influencers navigate a highly volatile digital landscape where the risks they face are both multifaceted and increasingly severe. In an environment growing more contentious and unpredictable, influencers are vulnerable to a range of challenges that threaten their professional and personal stability. Reputational harm remains a primary concern, as public backlash, cancel culture, and the spread of misinformation can tarnish their image in an instant. Legal risks are equally significant, with defamation lawsuits, intellectual property disputes, and liability issues stemming from sponsored content or misleading advertising frequently arising. Additionally, the rapid evolution of technology has introduced risks such as deepfake AI, which can manipulate an influencer's likeness for malicious purposes, and cyberattacks, which may lead to account hacking, data breaches, or loss of access to essential platforms. These risks are compounded by the highly public nature of their work, where even minor missteps are magnified under the scrutiny of millions of followers. Financially, influencers can face severe losses due to terminated brand deals or legal penalties. The blend of personal and professional exposure in this unpredictable environment necessitates a robust approach to risk management. Tailored insurance policies are no longer a luxury but a necessity to shield influencers from these ever-growing threats.

⁴ J. Hirsch, *Why Social Media Influencers Need Insurance*, Founder Shield (Nov. 18, 2024), <https://foundersshield.com/blog/influencer-insurance/>.

(B) Real life examples

- Defamation

Defamation is a statement that is untrue, published, and harmful to someone's reputation. Slander is defamation that is spoken. Libel is defamation that is published like a written piece or video⁵. Under the Bharatiya Nyaya Sanhita (BNS), defamation is defined as the act of harming someone's reputation through words, signs, or visible representations. The BNS covers defamation in Section 356 and if found guilty can attract imprisonment for up to two years, a fine, or both, and may also include community service.⁶

Dan Gryder, a YouTube aviation analyst, faced a defamation lawsuit after making serious allegations against Charles Cook, the owner of Flying Oaks Airport, through his videos. Gryder accused Cook of misconduct, including misleading the FAA and selling a faulty airplane, which Cook denied. Following these claims, Cook filed a defamation lawsuit, demanding retractions and the removal of defamatory content. Gryder's legal team withdrew due to financial issues, leaving him unrepresented at a damages hearing on August 16 2024, where he was ordered to pay over \$1 million, with 5% annual interest. The court upheld Cook's arguments against Gryder's free speech defence, ruling in Favor of Cook's defamation claims⁷.

In 2022, a court awarded Cardi B \$1.25 million in a defamation lawsuit against YouTuber Tasha K and her channel, unWinewithTashaK. Tasha K, or Latasha Kebe, made videos alleging the singer used cocaine, had herpes, and engaged in prostitution. Truth is a defence to a defamation lawsuit. However, in court, Kebe admitted she knew or likely knew these allegations were false⁸.

In a suit alleging trademark and copyright infringement and disparagement of health drink Complian produced by Zydus Wellness, the Delhi High Court directed “a “social media influencer” to take down the videos where he had claimed that two scoops of the powder contains 40-50 grams of sugar. The court held that the influencer, Prashant Desai, cannot be permitted to “identify and/ or notify the plaintiff's (Zydus Wellness) product ‘Complan’ by directly naming it⁹”.

In *I Buy Beauty LLC v Dong*, (2024 BCSC 815), the Court held a YouTuber liable for

⁵ C.H. Esq, *How Not to Get Sued as a Social Media Influencer*, Findlaw (Nov. 18, 2024), <https://www.findlaw.com/legalblogs/law-and-life/how-not-to-get-sued-as-a-social-media-influencer/>.

⁶ The Bharatiya Nyaya Sanhita, 2023.

⁷ *Gryder v. Cook*, No. 02-23-00434-CV, (Tex. App.—Fort Worth [2d Dist.] (October 24, 2024).

⁸ *Almázar v. Kebe*, No. 1:19-cv-01301-SDG (N.D. Ga. Jan. 24, 2022), *aff'd*, No. 22-10632 (11th Cir. Mar. 21, 2023).

⁹ *Zydus Wellness Prods. Ltd. v. Desai*, CS(COMM) 684/2024 (Delhi HC Sept. 26, 2024).

defamation, awarding the plaintiffs \$350,000 in damages. The plaintiffs, I Buy Beauty LLC, doing business as Fastboy Marketing and Vuong Pham (Buy Beauty), provide marketing and point-of-sale services to nail and beauty salons in Canada and around the world. Buy Beauty sued the defendant, Mr. Dong, in defamation after he made a series of YouTube videos targeting Buy Beauty. The videos alleged that Buy Beauty engaged in criminal activity, such as stealing sensitive personal and financial information, money laundering and human trafficking, among other things¹⁰.

- Copyright infringement

David Dobrik and The Dolan Twins: In 2018, these popular YouTubers were sued by a production company for allegedly using copyrighted music in their videos without permission. The case was eventually settled out of court.

Kylie Jenner: In 2019, Jenner was sued by a photographer for using a photo of herself without permission in a promotional post for her makeup line. The case was also settled out of court.

Huda Kattan: In 2019, Kattan was sued by a makeup artist for allegedly copying her makeup techniques and using them in her own tutorials. The case was dismissed in 2021.

Shane Dawson: In 2020, Dawson was sued by a production company for allegedly using copyrighted music in his documentary series "The Truth About Tanacon." The case was settled out of court.

The case of Gifford v. Sheil¹¹,

A lawsuit involving copyright infringement and trade dress claims. Sydney Nicole Gifford, a popular influencer, has taken legal action against fellow influencer Alyssa Sheil, accusing her of copying her distinct neutral-toned aesthetic on social media. Sydney Nicole Gifford, a social media influencer with over 500,000 TikTok followers and 230,000 on Instagram, is known for her clean, neutral aesthetic. Her style centres around a monochrome palette of cream, beige, and grey, which she uses to promote products ranging from household goods to apparel. Gifford has built her personal brand over years, carefully curating a distinct visual identity that resonates with her audience.

In 2023, Gifford collaborated on a joint photoshoot with another Texas-based influencer, Alyssa Sheil, who has a smaller following of around 270,000 TikTok followers and 108,000 Instagram followers. According to Gifford, shortly after their collaboration, Sheil blocked her on

¹⁰ I Buy Beauty LLC v. Dong, 2024 BCSC 815

¹¹ Gifford v. Sheil, 1:24-cv-00423, (W.D. Tex.)

Instagram and TikTok. What followed was a series of posts from Sheil that Gifford alleges were direct copies of her own content.

From nearly identical outfits and poses to similar product recommendations, Gifford claims Sheil replicated her aesthetic down to the smallest details. In one instance, Gifford points to a TikTok video in which Sheil showcased her top Amazon home finds for the year—a concept strikingly similar to a video Gifford had shared, featuring almost the exact same products and styling.

Gifford sent cease and desist letters to Sheil, which were ignored. Social media platforms, however, did take down some of Sheil's posts following Gifford's complaints. When the alleged mimicry continued, Gifford escalated the situation, filing a lawsuit in federal court, accusing Sheil of copyright infringement and trade dress infringement. Gifford's lawsuit includes eight claims, but the most significant are copyright infringement and trade dress infringement.

Copyright law protects original works of authorship, including visual art, photographs, and videos. For Gifford, her claim of copyright infringement centres on the idea that Sheil copied not just the content of her posts, but the overall composition of her photographs and videos.

Gifford had registered at least 140 photos and 18 videos with the US Copyright Office, which gives her a legal basis to file a copyright infringement lawsuit. These registrations allow her to argue that her original content has been unlawfully copied by Sheil. Copyright infringement in this case means that Gifford believes Sheil replicated enough of her original photos and videos that a court could find substantial similarity between the two influencers' work.

The Decision

In response to a motion filed by Sheil to dismiss certain claims, Magistrate Judge Dustin M. Howell of the United States District Court for the Western District of Texas ruled that an influencer who replicates another's "aesthetic" or "makeup" could potentially violate copyright laws or misappropriate the individual's likeness. Sheil did not seek to dismiss the primary copyright infringement claim but instead contested the related claims of secondary infringement and the unauthorized removal of copyright management information (CMI). These secondary claims depend on an initial determination of direct copyright infringement.

The Magistrate Judge observed that this case appears to be unprecedented, involving a social media influencer accusing another influencer of copyright infringement due to similarities in their posts promoting identical products. However, the Judge refrained from addressing the validity of the primary claim. He recommended against dismissing the subsidiary claims, indirectly suggesting that the primary claim of direct copyright infringement might hold some

merit.

This ruling potentially paves the way for more nuanced and complex evaluations of online copyright infringement than previously encountered. For instance, it raises the possibility that creating a "minimalist bathroom décor" board on Pinterest could be considered infringing on an earlier board with a similar theme, or that a social media page promoting jewellery with a skull-and-crossbones motif might infringe an earlier page with the same concept. Although these scenarios may seem exaggerated, the precedent of infringement based on "similarities between posts promoting the same products" could subject any post or page, regardless of efforts to maintain originality, to potential legal challenges.

Additionally, the Magistrate Judge recommended against dismissing the misappropriation of likeness claim, which was based on alleged copying of personal elements such as "outfits, poses, hairstyles, makeup, and voice." This decision opens the door to claims of impersonation against influencers for mimicking personal style. Similar to copyright infringement claims rooted in the vague notion of aesthetics, impersonation claims tied to the equally subjective concept of personal style introduce a novel and complex area in social media and internet law.

- Trademark Infringement

Molly Sims and Trademark Infringement: Supermodel and influencer Molly Sims was sued by Petunia Products for trademark infringement. She had promoted a product named BROW DEFINING BOOST on her blog, which allegedly infringed Petunia's trademark BROW BOOST. The court found Sims' promotional post was commercial use, leading to her being held liable for direct trademark infringement.

In *Petunia Products, Inc. v. Rodan & Fields, LLC and Molly Sims*, the U.S. District Court held that a social media influencer, presumed to impact consumer purchase decisions, could be sued for direct trademark infringement. The case involved Petunia Products, the owner of the BROWBOOST® trademark, alleging that Rodan & Fields' competing product, "Brow Defining Boost," infringed its trademark. Influencer Molly Sims promoted the product through a blog post, which allegedly confused customers due to similar product names and sales channels.

The court rejected Sims's argument that influencers, as third parties, should not bear liability for trademark infringement, stating that her promotional blog constituted commercial use likely to mislead customers. While the court allowed claims of direct infringement and unfair business practices to proceed, it dismissed contributory infringement and false advertising claims, granting Petunia Products time to amend its complaint.

This case emphasizes the potential legal risks influencers face when endorsing products,

underscoring the need for due diligence and legal agreements with brands to mitigate liability risks¹².

II. LEGAL AND REGULATORY ASPECT

The legal and regulatory framework governing social media influencers has evolved rapidly in response to their growing impact on consumer behaviour and the digital economy. Influencers must navigate a complex web of laws addressing advertising standards, intellectual property rights, privacy, and consumer protection. Globally, regulators like the Federal Trade Commission (FTC) in the United States and the Advertising Standards Council of India (ASCI) have introduced guidelines mandating transparency in sponsored content through proper disclosures. These regulations aim to protect consumers from misleading endorsements while holding influencers accountable for the content they promote. However, the dynamic nature of social media and its global reach pose challenges in enforcing these laws uniformly, highlighting the need for harmonized regulations and increased awareness among influencers.

India's legal framework for influencer marketing is still evolving. Nonetheless, several laws and regulations apply to social media influencers, focusing primarily on consumer protection and advertising standards.

The Consumer Protection Act, 2019, serves as a cornerstone for regulating misleading advertisements, including those propagated by social media influencers. Under this Act, influencers are treated as endorsers, and they are held responsible for ensuring that their endorsements do not deceive or mislead consumers. The law also addresses the liability of both influencers and the brands they promote if false claims are made. Section 21 of the Act grants the Central Consumer Protection Authority (CCPA) the power to investigate misleading advertisements and take action against endorsers. If an influencer is found promoting false or misleading advertisements, they can face penalties, including fines of up to ₹10 lakh for a first offense, which can escalate to ₹50 lakh and a ban from endorsing any product for subsequent violations. In severe cases, repeated violations may even result in imprisonment. This Act represents a significant step toward ensuring accountability in influencer marketing, as it places the onus on influencers to verify the accuracy of the claims they make about products or services. Influencers must now conduct due diligence before promoting any brand to avoid legal repercussions.

Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading

¹² **Petunia Prods., Inc. v. Rodan & Fields, LLC**, No. 8:21CV00630, 2021 WL 6286486 (C.D. Cal. Apr. 5, 2021).

Advertisements, 2022 The Ministry of Consumer Affairs, Government of India, recognized the growing impact of social media influencers and introduced the Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements in June 2022. These guidelines explicitly address influencer marketing and aim to ensure that consumers can easily distinguish between genuine content and paid promotions. Key provisions of these guidelines include:

Mandatory Disclosures: Influencers must clearly disclose any material connection between themselves and the brands they promote. This includes paid partnerships, free products, or other forms of compensation. The disclosure must be "clear, prominent, and hard to miss" and should be made in a language and manner that the average consumer can easily understand. Common hashtags like #ad, #sponsored, or #partnership are typically used, but the guidelines emphasize that these should be sufficiently visible and not hidden in captions or tags.

Truthful Endorsements: Influencers are required to provide truthful representations of the products they endorse. Exaggerated claims, misleading visuals, or unverified testimonials are strictly prohibited. For example, if an influencer endorses a cosmetic product claiming it cures a skin condition without scientific backing, both the influencer and the brand can be held accountable.¹³

(A) The FTC Regulations

- i. The FTC regulations have come out with an endorsement guideline which go into details about how advertisers and endorsers can stay on the right side of the law.
- ii. The guideline specifies that if one endorse a product through social media, the endorsement message should make it obvious about the relationship ("material connection") with the brand.
- iii. The FTC regulation have widen the ambit of material relationship to include a personal, family, or employment relationship or a financial relationship- such as the brands paying or giving discounted or free products or services.
- iv. Further if the post has been made outside the jurisdiction of USA, US laws might also apply in certain cases if it's reasonably foreseeable that the post will affect U.S. consumers.
- v. If the endorsement is in a picture on a platform like snapchat or Instagram stories,

¹³ S. Sharma, *Regulating Social Media Influencers: A Legal Perspective in India*, *Legal Services India* (Nov. 18, 2024), <https://www.legalserviceindia.com/legal/article-18250-regulating-social-media-influencers-a-legal-perspective-in-india.html>.

superimpose the disclosure over the picture and make sure viewers have enough time to notice and read it.

- vi. If it is in the form of a video, the disclosure should be in the video and not just in the description uploaded with the video.
- vii. If making an endorsement in a live stream, the disclosure should be repeated periodically so viewers who only see part of the stream will get the disclosure.¹⁴

III. NEED FOR SOCIAL MEDIA INSURANCE

With the rise of social media usage and accessibility to content, having a large follower base is not just limited to famous celebrities anymore and neither is it a pre-requisite to creating content. In fact, many influencers start making money from content creation with just thousands of followers. According to a report by Statista, in the first half of 2023, a majority of influencers — over 50,000 content creators — on Instagram across India fell under the micro-influencer tier, with 10,000 to 50,000 followers. It added that the reach of the nano influencers, who had under 10,000 followers on Instagram, grew substantially to over 22,000. So, these days, anyone with a social media account an acumen for creating content can potentially become an influencer. But, since content is open to individual perception with innumerable viewers, there is also a looming fear of being sued for promoting the wrong products, hurting feelings, being a victim of deepfakes, identity thefts, account hacks, so on and so forth. And this flipside of content creation is not just about dealing with criticism or keeping a strong front, but being ready for serious possible legal actions.¹⁵

(A) Growing popularity among brands

it's not uncommon for businesses to require their contractors to carry various insurance policies. Companies who hire social media influencers are no different. Most professionals have learned quickly that social media exposure is risky. Therefore, influencer marketing is equally as risky.

Influencer insurance transfers this particular risk from the company that hired the influencer back to the influencer. With this added safety net, managers are more likely to sign a contract with a social media influencer.

¹⁴ FTC, *Disclosures 101 for Social Media Influencers* (Nov. 18, 2024), https://www.ftc.gov/system/files/documents/plain-language/1001a-influencer-guide-508_1.pdf.

¹⁵ M. Mishra, *Social Media Insurance: Why You Need One If You Are an Influencer*, *NDTV Profit* (Nov. 18, 2024), <https://www.ndtvprofit.com/business/social-media-insurance-why-you-need-one-if-you-are-an-influencer>.

(B) Protection for defamation

You may have heard that “opinions” are safe from lawsuits — “it’s only my opinion” — however, that doesn’t mean you won’t get sued or threatened with a suit if your “opinion” is taken the wrong way. Influencer liability insurance provides you with a lawyer to defend even baseless claims. Having the power to influence millions around the globe it is not unlike that while posting a story or a post the sentiments of certain people are tarnished. It’s no news flash that sometimes people will disagree with your thoughts and opinions. It doesn’t matter if what you present is backed by hundreds of years of scientific research; some soul can find an issue with it. As a result, the internet makes these offenses effortless to commit. The “backbone” of Influencer insurance is “media liability”.¹⁶

(C) Rise of deepfake AI Technology

The rise of deepfake AI technology on social media has introduced severe risks for influencers, whose careers depend heavily on their online personas. Deepfakes can fabricate highly realistic but false content, portraying influencers in compromising situations, endorsing controversial opinions, or engaging in unethical behaviour. Such attacks can result in significant reputational damage, loss of follower trust, and even legal challenges due to defamation claims or fraudulent impersonation. Targeted influencers may also suffer financial losses, with brands withdrawing collaborations and income streams being disrupted. Insurance tailored to influencers can provide crucial safeguards against these threats, offering coverage for defamation lawsuits, funding for reputation management campaigns, and compensation for income loss. Additionally, cyber liability insurance can help address identity theft and fraudulent misuse of their online profiles. By mitigating the financial and reputational fallout from deepfake attacks, such policies empower influencers to navigate this growing technological threat with greater security and confidence.

IV. EXISTING INSURANCE FRAMEWORK FOR INFLUENCERS

Although there does not exist any one policy by the name of influencer insurance policy, rather it is a combination of different policies such as:

(A) Professional Liability

Also known as Errors & Omissions Insurance, or just simply E&O, this is a form of professional liability that protects an influencer if they are sued for a professional error. For example, let's

¹⁶ Hirsch, J. (2024) *Why social media influencers need insurance, Founder Shield*. Available at: <https://foundershield.com/blog/influencer-insurance/>. (Accessed: 18 November 2024).

say you make beauty content and recommend your audience tries a new hard product. Turns out that hair product was recalled and the formula damaged someone's scalp. The injured person could file a lawsuit against the creator claiming they used it due to their recommendation.¹⁷ For instance, if an influencer recommends and supports a product that turns out to be dangerous, those who used the product as a result of the influencer's recommendation and were later harmed could pursue legal action against the influencer. Alternatively, an influencer hosts a podcast about current video game voice acting events or let's say during discussions with their guests, they make a comment that accidentally suggests specific voice actor has done something they didn't. As a result of this alleged action, the company terminated the voice actor's contract. The voice actor can pursue legal action against the influencer for the financial losses related to their erroneous statement.¹⁸

Without E&O insurance, the influencer would need to pay these damages out of pocket, which could significantly impact their financial well-being and even end their career.

(B) Cyber Insurance

If you use a computer or phone at any point for your business, you are exposed to cyber-attacks. The number of attacks are outrageous today and analysts across globe do not see that number slowing down. The best example of a cyber-attack typically happens within an email or text (although some attacks can happen without the user knowing). If you receive an email, click a link or open an attachment, information such as banking, personal, employee, and customer data can be stolen and exploited¹⁹. Cyber insurance for social media influencers can cover the costs of an attack including ransomware demands, data and system restoration fees and third-party losses for anyone who's identity was stolen due to a hack of your system or devices²⁰.

(C) Commercial General Liability

General liability insurance provides coverage for common liability claims from third parties (people outside your business).

This business insurance policy covers legal defence costs if someone sues over a bodily injury, property damage, or advertising injury. Your policy can pay for everything from hiring a lawyer

¹⁷ T. Crawford, *What Insurance Does a Social Media Influencer Need?*, *Fullsteam Insurance* (2022), <https://www.fullsteam.io/insights/what-insurance-does-a-social-media-influencer-need>.

¹⁸ A. Roberts, *Creating Content, Minimizing Risk: The Value of E&O Insurance for Influencers*, *MFE Insurance Brokerage* (Nov. 18, 2024), <https://www.mfeinsurance.com/creating-content-minimizing-risk-the-value-of-eo-insurance-for-influencers/>.

¹⁹ T. Crawford, *What Insurance Does a Social Media Influencer Need?*, *Fullsteam Insurance* (2022), <https://www.fullsteam.io/insights/what-insurance-does-a-social-media-influencer-need>.

²⁰ Clark, A. (2022) *Social Media Influencer Liability Insurance - aligned*, *ALIGNED Insurance*. Available at: <https://www.alignedinsurance.com/social-media-influencer-liability-insurance/>. (Accessed: 18 November 2024).

to court-ordered judgments and settlements. For example a guest vlogger who slips and suffers an injury in your studio. Later on the guest sues you for damage the commercial general liability insurance will protect and cover the entire cost of fighting the legal battle from lawyers and court fees, to even final settlement amount. Although some commercial general liability insurance policy covers the actions of copyright infringement but there scope is often limited.

(D) Business Property

Also called as commercial property insurance this policy protects the owned or rented equipment, building and personal property relating to one's business. Cameras, computers, printers, audio, furniture, and more property owned by the business can have significant value after adding it all up. Protect all of your business property while it is stored at your home, office, or studio and while it's on the road²¹.

V. LIMITATIONS AND GAPS IN EXISTING INSURANCE COVERAGE

As the influencer economy grows exponentially, it is disheartening to observe that the insurance sector has yet to catch up with the specific needs of this dynamic profession. While certain general insurance policies—such as liability insurance, cyber insurance, and professional indemnity coverage—address a few aspects of influencer-related risks, they fall significantly short of comprehensively catering to the unique challenges influencers face in their careers. Influencers navigate a digital landscape fraught with vulnerabilities, including defamation lawsuits, data breaches, cyberbullying, intellectual property disputes, and even personal security threats. Yet, the existing insurance frameworks largely fail to address these specific risks in a tailored manner.

The gap between the rapidly evolving influencer ecosystem and the slow adaptation of insurance solutions highlights a missed opportunity. Current policies are often rigid, failing to account for the nuances of digital platforms, the diverse revenue streams influencers rely on, or the high degree of public exposure that makes them particularly susceptible to reputational damage. Moreover, the absence of awareness and education about the importance of insurance within the influencer community exacerbates the problem. Addressing these limitations requires not only innovative insurance products but also a collaborative approach between insurers, influencers, and digital platform providers to create a robust safety net for this modern profession.

Most insurance policies cater to traditional industries, offering standard coverage such as health,

²¹ T. Crawford, *What Insurance Does a Social Media Influencer Need?*, *Fullsteam Insurance* (2022), <https://www.fullsteam.io/insights/what-insurance-does-a-social-media-influencer-need>.

property, and general liability. However, influencers operate in a digital environment where their primary assets are intangible: reputation, intellectual property, and online content. Current policies fail to address emerging threats like:

Defamation lawsuits: Influencers often face legal actions for alleged defamation or misrepresentation. For example, cases like Molly Sims' trademark infringement highlight the need for insurance to cover legal fees and damages in such situations.

Deepfake technology: The misuse of an influencer's image in deepfake videos is a growing concern, potentially harming their reputation and career. These threats remain outside the scope of most traditional policies.

Content misuse: Unauthorized use of an influencer's content or intellectual property is a frequent issue that lacks adequate protection in standard frameworks.

Trademark or copyright infringement: an influencer advertised for a product of a company who is being sued for a trademark infringement and since the influencer has advertised the product, it is not uncanny that he or she is also made a party to the suit, since it falls within the ambit of "commercial usage".

Cybersecurity and Data Loss: Influencers depend heavily on digital platforms to engage audiences and monetize their content. Cybersecurity breaches, such as hacking of social media accounts or theft of personal data, can lead to significant income loss and reputational harm. While cyber liability insurance exists, it often targets corporations rather than individual influencers. These policies may not address: Recovery of social media accounts. Loss of follower engagement, which directly impacts revenue streams. Data theft, especially concerning proprietary content or client contracts. While E&O insurance can cover many of an influencer's most pressing needs, intellectual and conceptual protections do not cover every type of negligent or harmful behaviour. For instance, if the influencer works with a team, that team still has the right to file claims for discrimination or harassment against the influencer.

Other types of liability, such as physical harm, property damage, or employee illness, will need to be covered with other policies, such as general liability, professional liability, and workers' compensation.

(A) What to look for when selecting an insurance policy

For influencers, the process of selecting an appropriate insurance policy can often be a complex and challenging task. This complexity arises from the need to address diverse risks, ranging from defamation suits and cyberattacks to breaches of intellectual property and reputational

damage. To ensure that the most suitable policy is chosen, influencers should consider several crucial factors. These include understanding the specific risks associated with their content creation activities, evaluating the coverage scope of available policies, and seeking policies tailored to the digital and social media landscape. Consulting with industry experts and insurance professionals can provide valuable insights into available options and help influencers navigate the intricate details of policy terms. By keeping these considerations in mind, influencers can safeguard their careers and personal assets against potential liabilities in an increasingly unpredictable and digitally-driven environment.

As in influencer it is very important to ensure that your policy should provide coverage for risks which are most associated with your profession like-

- Defamation
- Cyber Attack
- Copyright and Trademark Infringement
- Deepfake AI

Some of the existing policies in some countries do cover the above mentioned risk to a certain extent such as The Media Error and omission policy covers the following

- Breach of the Professional Duty by the Insured arising out of Negligence
- Libel and Slander committed without Intention
- Plagiarism Claims
- Copyright Violation
- Trademark Infringement
- Misappropriation of Information, Ideas etc
- Invasion of Rights to Privacy

Some Cyber Insurance also provide coverage to harm caused due to Deepfake AI or any legal action brought in pursuant to such deepfake AI.

VI. CHALLENGES IN SOCIAL MEDIA INSURANCE FOR INFLUENCERS

The evolution of the influencer industry has created a need for specialized insurance policies to protect against unique risks faced in this digital age. However, the development and implementation of social media insurance policies are fraught with several challenges. Unlike conventional insurance categories like fire or life insurance—where coverage areas are

standardized globally—the landscape of social media insurance lacks uniformity and consistency, leading to significant coverage gaps.

One of the primary issues lies in the absence of a universal framework or benchmark for influencer insurance. For instance, while some policies in specific countries offer protection against defamation or intellectual property infringement, others fail to address these critical risks, leaving influencers vulnerable. This disparity stems from differing regulatory environments, cultural perceptions of social media professions, and insurers' varying approaches to risk assessment across regions. The lack of standardization means that influencers operating in multiple jurisdictions may need to secure multiple policies to ensure comprehensive coverage, complicating their financial and administrative responsibilities.

Another challenge is the difficulty of quantifying risks associated with digital content creation. Unlike traditional industries, where risk factors are tangible and relatively predictable, the influencer industry operates in a dynamic and volatile environment. For example, the likelihood of facing a defamation suit or being a victim of cyberattacks is difficult to assess and varies depending on factors such as follower count, the nature of content, and platforms used. This unpredictability makes it harder for insurers to define policy terms and premiums.

Moreover, the rapid pace of technological advancement introduces risks that traditional insurance frameworks are ill-equipped to address. For example, the rise of deepfake AI has enabled malicious actors to manipulate digital identities, causing reputational damage or financial losses to influencers. Similarly, evolving cybersecurity threats require insurers to constantly adapt policies to include protection against emerging vulnerabilities, adding complexity to product design and execution.

Awareness is another major hurdle. Many influencers, especially those at the beginning of their careers, lack an understanding of the importance of insurance in safeguarding their professional and personal interests. Insurers, too, are often unfamiliar with the nuances of the influencer economy and may not offer tailored products that resonate with this target group. This disconnect between the demand and supply of suitable insurance solutions perpetuates the existing coverage gaps.

Enforcement and claims settlement present additional challenges. Influencers often operate in a cross-border environment, making jurisdictional issues a significant concern. For example, an influencer might face legal action in one country while being insured in another, leading to complications in claims processing and dispute resolution. Furthermore, the subjective nature of damages, such as reputational harm, makes it challenging for insurers to quantify losses

accurately and process claims efficiently.

To address these challenges, the industry must prioritize the development of streamlined and comprehensive policies tailored to the influencer economy. Insurers need to adopt a global perspective, incorporating insights from established insurance practices while innovating to meet the unique demands of social media professionals. Policymakers should also play a pivotal role by establishing regulations and standards that encourage consistency and transparency across regions.

Additionally, fostering collaboration between insurers, digital platforms, and influencers can pave the way for more effective solutions. For instance, partnerships with social media platforms could provide valuable data to insurers, enabling them to better assess risks and design products. Educational initiatives targeting influencers can also raise awareness about the importance of insurance, empowering them to make informed decisions.

While the need for social media insurance is evident, the challenges in developing and implementing effective policies remain substantial. Addressing these issues will require a coordinated effort from insurers, regulators, and the influencer community to ensure that the burgeoning industry is adequately protected against the myriad risks of the digital era.

VII. CONCLUSION

The influencer economy is poised to grow into a multi-billion-dollar industry, bringing both opportunities and challenges. As public figures with immense online reach, influencers bear risks that demand specialized insurance solutions. However, addressing these risks requires more than tailored policies—it necessitates collaboration, innovation, and education across stakeholders, including insurers, platforms, and influencers themselves. By adopting a proactive and adaptive approach, the insurance industry can bridge existing gaps, ensuring that influencers are equipped to navigate the complexities of their digital careers with confidence and security.
